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to: Permanent Representatives Committee (Part II)

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Subject: 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 [**First reading**]
- Analysis of the draft final compromise text with a view to agreement

Introduction

On 13 July 2010, the Commission submitted the proposal for a Seasonal Worker Directive. The aim of this proposal is to set out fair and transparent rules for entry and residence for third-country seasonal workers, as well as a common set of rights.

On 5 December 2012, the Permanent Representatives Committee - hereinafter the Committee - gave the Cyprus Presidency a mandate to engage in trilogues (17456/1/12)¹. On 8 July 2013, a seventh trilogue took place.

¹ In accordance with Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union, and to the Treaty on the Functioning of the European Union, the United Kingdom and Ireland are not taking part in the adoption of the Seasonal Worker Directive. In accordance with the Protocol on the position of Denmark, also Denmark does not take part in its adoption and is not bound by it or subject to its application.

On 11 July, the Presidency reported to the Committee that, although an overall agreement was not found, the trilogue had been useful for clarifying the positions of the Council and the European Parliament on the main political issues. Furthermore, agreement was found on a significant number of technical points.

Compromise package

Since the 7th trilogue, the Lithuanian Presidency has conducted intensive consultations both with delegations in Council and with Parliament. On the basis of these consultations, the Presidency prepared a draft compromise text for examination by the Committee on 9 October (14150/13). However, this examination was postponed in light of soundings from some delegations that they were not yet ready to take a position on the Presidency compromise package. Given this situation, the Presidency has undertaken further consultations resulting in the compromise package which appears in the fourth column of the Annex. Changes compared to the document examined by the Justice and Home Affairs Counsellors on 3 October (doc. 13743/13) are indicated in underlined; changes compared to the Commission proposal are indicated in *bold/italics*.

The annexed text contains Presidency suggestions with regard to the eight main issues still outstanding between the co-legislators. On four of these issues (temporary work and employment agencies, facilitated re-entry, extension of stay, fees and costs), in order to find agreement, further flexibility is needed from Council and Parliament. On the four other issues (quota, duration of stay, subcontracting, right to equal treatment), Council and Parliament have already signalled they can agree to the suggested compromises as part of an overall agreement.

In addition to the compromise package contained in document 14150/13, the Presidency suggests to amend Article 2(1) to make explicit that third-country nationals who are already on the territory of the Member States are not covered by the scope of the directive except for those extending their stay or renewing their authorisation for the purposes of seasonal work. Furthermore, the Presidency suggests some additional technical changes.

First, the Presidency invites delegations to examine, with a view to endorsement, the compromise suggestions on the following four main outstanding issues taking into account the modification of Article 2(1) referred to in the previous paragraph.

1. Employment or temporary work agencies - Article 2(2)(b) Council text and recital (9a)

Council can accept the wish of Parliament that seasonal workers who have a direct contract with an employment or temporary work agency are included in the scope of the directive. With a view to clarifying the conditions applicable to such seasonal workers, it is specified in recital (9a) that Member States can provide in their national legislation whether seasonal workers under contract with employment and temporary work agencies are allowed to carry out work on their territory. The Presidency suggests not to specify in recital (9a) whether the Seasonal Worker Directive or the Temporary Agency Work Directive applies.

2. Facilitated re-entry - Article 12 and recital (17)

On the one hand, some delegations take the position that facilitated re-entry for seasonal workers should be voluntary, both as regards the principle and as regards the choice of measures. On the other hand, the Parliament wants the principle and the measures to be mandatory. As a compromise, the Presidency suggests to require Member States to facilitate re-entry of *bona fide* third-country nationals who were admitted to that Member State as seasonal workers at least once, while leaving them the choice as to the facilitation measure or measures.

3. Extension or renewal of stay - Article 13, Article 11a and recital (18b)

Some delegations in Council have expressed concerns about the obligation for Member States to allow seasonal workers to extend their stay. Furthermore, an important number of delegations insists on a maximum time-limit for deciding on an application for an authorisation for the purposes of seasonal work of 90 days from the date on which the complete application was lodged. This time-limit would apply irrespective whether this concerns an initial application or an application for extension of stay.

However, the Parliament is very much attached to the possibility for seasonal workers to extend their stay or renew their authorisation. Parliament is also strongly in favour of much shorter maximum time-limits for deciding on applications, in particular in case of an extension of stay.

Taking into account these different positions, the Presidency suggests to set out in Article 13(1a) and recital (18b) the following compromise:

- With a view to accommodating concerns in Council, the Presidency suggests in Article 13(1) to have a maximum time-limit for taking a decision on an application for an authorisation for the purposes of seasonal work of 90 days from the date on which the complete application or renewal was lodged, both in case of an initial application and in case of applications for extension or renewal of stay.
- The Presidency further suggests to use the term "application" in relation to a request for extension of stay or a renewal of an authorisation for the purposes of seasonal work. As a consequence, Member States can require in case of extension or renewal the same admission criteria as in case of an initial application for an authorisation.
- In the case of an application for an extension or renewal of stay, Member States must, first of all, take all reasonable steps to ensure that the seasonal worker is not obliged to interrupt his or her employment relationship with the same employer, or prevented from changing employer, due to on-going administrative procedures. In the same vein, recital (18b) specifies that the applicant is expected to submit his or her application for extension or renewal as soon as possible.
- Furthermore, if the validity of the authorisation for the purpose of seasonal work expires during the procedure for extension or renewal of stay, Member States must allow the seasonal worker to stay on their territory, in accordance with their national law, until a decision on the application has been taken by the competent authorities. Member States only are bound by this obligation when the application was submitted within the validity of that authorisation and the maximum period of stay has not expired.

- When the seasonal worker stays on the territory, Member States may, inter alia, decide to:
 - a. issue national temporary residence permits or equivalent authorisations until a decision is made, and/or
 - b. allow the seasonal worker to work during that period.

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

4. Fees and costs - Article 13a and recital (18ba)

So far, the Parliament has insisted that employers should be obliged to reimburse the fees for handling an application to the seasonal worker. However, the Presidency suggests to maintain the Council position and refrain from providing for such obligation in Article 13a of the directive leaving it to the Member States to decide whether they want to entitle seasonal workers to reimbursement of such fees. Nevertheless, with a view to addressing some of the concerns of Parliament, the Presidency suggests to specify in recital (18ba) that, given the nature of seasonal work, Member States are encouraged not to charge a fee for the handling of applications. Moreover, the recital clarifies that, in the event that a Member State decides to charge a fee, it should not be disproportionate or excessive.

Second, the Presidency invites the Committee to confirm its agreement with regard to the compromises on the following four main issues as part of an overall package:

5. Member States are not allowed to refuse to extend a stay or renew an authorisation for the purpose of seasonal work when the maximum number ("**quota**") of third country national workers is exceeded (Article 7(5) and recital (16a) of the Council text). However, Member States may continue to apply a labour market test on these workers if it turns out that the vacancy could be filled by nationals of the Member State concerned, by other EU citizens or by third-country nationals lawfully residing in that Member State.
6. The maximum **duration of stay** of seasonal workers must lie between five to nine months in any period of twelve months (Article 11).

7. Inclusion of a non mandatory provision with regard to **subcontracting**. This provision leaves it to Member States to decide whether main contractors or intermediate contractors making use of subcontractors are held liable or sanctioned (Article 12a(3)).

8. Article 16 (1) lists the **rights** where seasonal workers enjoy equal treatment with nationals of the host country. In paragraph 2 of the same article the conditions are laid down where Member States may restrict equal treatment: Member States may exclude family benefits and unemployment benefits from equal treatment with nationals in the field of social security (in all cases, regardless of the length of stay of the seasonal worker in the Member State); they may limit equal treatment with nationals in relation to education and vocational training as well as tax benefits.

Third, the Presidency invites the Committee to endorse the technical changes to:

- Recital (15ba);
- Recital (19);
- Recital (20);
- Recital (16a), Title Article 11a, Article 11a(6), (7) and (8), Article 13(1a), Article 13(3) and (3a);
- Article 5(1)(a) and (b), Article 5b(1)(a), (b) and (c);
- Article 5(4), Article 5b(4);
- Article 11a(1) and (3);
- Article 11a(11);
- Article 12a(2);
- Article 13a(2)(b).

Conclusion

The Presidency invites the Permanent Representatives Committee to examine the annexed draft compromise text on the Seasonal Worker Directive with a view to reaching agreement between Council and Parliament in the eighth trilogue.

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

<p>Commission Proposal (doc. 12208/10)</p>	<p>EP text result of the orientation vote</p>	<p>Council text (as agreed in COREPER on 5 Dec 2012)</p>	<p>Comments</p>
<p>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</p>		<p>DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the conditions of entry and [...] stay of third-country nationals for the purposes of seasonal employment</p>	<p><i>EP can accept the Council text.</i></p>
<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION</p>		<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p>	
<p>Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(a) and (b) thereof,</p>		<p>Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(a) and (b) thereof,</p>	
<p>Having regard to the proposal from the European Commission²,</p>		<p>Having regard to the proposal from the European Commission,</p>	
<p>After transmission of the draft legislative act to the national Parliaments,</p>		<p>After transmission of the draft legislative act to the national Parliaments,</p>	

² OJ C , , p . .

Having regard to the opinion of the European Economic and Social Committee ³ ,		Having regard to the opinion of the European Economic and Social Committee,	
Having regard to the opinion of the Committee of the Regions ⁴ ,		Having regard to the opinion of the Committee of the Regions,	
	<i>Amendment 1</i>		
	<i>- having regard to the Charter of Fundamental Rights of the European Union, and in particular Article 15(3) and Articles 27, 28, 31, 33 thereof,</i>		<i>Agreement to drop this amendment and move the reference to the Charter to Recital 25.</i>
Acting in accordance with the ordinary legislative procedure,		Acting in accordance with the ordinary legislative procedure,	
Whereas:		Whereas:	
(1) For the gradual establishment of an area of freedom, security and justice, the Treaty provides for measures to be adopted in the fields of asylum, immigration and protection of the rights of third-country nationals.		(1) For the gradual establishment of an area of freedom, security and justice, the Treaty provides for measures to be adopted in the fields of asylum, immigration and protection of the rights of third-country nationals.	
	<i>Amendment 2</i>		
	<i>(1a) The Treaty provides that the Union is to develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows and fair treatment of third-country nationals residing legally in Member States. To that end, the</i>		<i>Agreement on EP amendment.</i>

³ OJ C , , p. .

⁴ OJ C , , p. .

	<i>European Parliament and the Council are to adopt measures on the conditions of entry and residence of third country nationals and on the definition of their rights.</i>		
(2) The Hague Programme, adopted by the European Council on 4 and 5 November 2004, recognised that legal migration will play an important role in advancing economic development, and asked the Commission to present a policy plan on legal migration, including admission procedures, capable of responding promptly to fluctuating demands for migrant labour in the labour market.		(2) The Hague Programme, adopted by the European Council on 4 and 5 November 2004, recognised that legal migration will play an important role in advancing economic development, and asked the Commission to present a policy plan on legal migration, including admission procedures, capable of responding promptly to fluctuating demands for migrant labour in the labour market.	
(3) The European Council of 14 and 15 December 2006 agreed on a series of steps for 2007, which include the development of well-managed legal immigration policies that fully respect national competences, in order to assist Member States in meeting existing and future labour needs. It also called for means to be explored to facilitate temporary migration.		(3) The European Council of 14 and 15 December 2006 agreed on a series of steps for 2007, which include the development of well-managed legal immigration policies that fully respect national competences, in order to assist Member States in meeting existing and future labour needs. It also called for means to be explored to facilitate temporary migration.	

<p>(4) The European Pact on Immigration and Asylum, adopted by the European Council on 15 and 16 October 2008, expresses the commitment of the European Union and its Member States to conduct a fair, effective and consistent policy for dealing with the challenges and opportunities of migration. The Pact forms the basis of a common immigration policy guided by a spirit of solidarity between Member States and cooperation with third countries and founded on proper management of migratory flows, in the interests not only of the host countries but also of the countries of origin and of the migrants themselves.</p>		<p>(4) The European Pact on Immigration and Asylum, adopted by the European Council on 15 and 16 October 2008, expresses the commitment of the European Union and its Member States to conduct a fair, effective and consistent policy for dealing with the challenges and opportunities of migration. The Pact forms the basis of a common immigration policy guided by a spirit of solidarity between Member States and cooperation with third countries and founded on proper management of migratory flows, in the interests not only of the host countries but also of the countries of origin and of the migrants themselves.</p>	
	<p><i>Amendment 3</i></p>		
<p>(5) The Stockholm Programme, adopted by the European Council at its meetings of 10 and 11 December 2009, recognises that labour immigration can contribute to increased competitiveness and economic vitality and that, in the context of the important demographic challenges that will face the EU in the future with an increased demand for labour, flexible immigration policies will make an important contribution to</p>	<p>(5) The Stockholm Programme, adopted by the European Council at its meetings of 10 and 11 December 2009, recognises that labour immigration can contribute to increased competitiveness and economic vitality and that, in the context of the important demographic challenges that will face the EU in the future with an increased demand for labour, flexible immigration policies will make an important contribution to</p>	<p>(5) The Stockholm Programme, adopted by the European Council at its meetings of 10 and 11 December 2009, recognises that labour immigration can contribute to increased competitiveness and economic vitality and that, in the context of the important demographic challenges that will face the EU in the future with an increased demand for labour, flexible immigration policies will make an important contribution to</p>	<p><i>Agreement on EP amendment.</i></p>

<p>the Union's economic development and performance in the long term. It invites the European Commission and the European Council to continue implementing the Policy Plan on Legal Migration⁵.</p>	<p>the Union's economic development and performance in the long term. <i>It also highlights the importance of ensuring fair treatment of third-country nationals residing legally on the territory of the Member States and of optimising the link between migration and development.</i> It invites the European Commission and the European Council to continue implementing the Policy Plan on Legal Migration.</p>	<p>the Union's economic development and performance in the long term. It invites the European Commission and the European Council to continue implementing the Policy Plan on Legal Migration.</p>	
	<p><i>Amendment 4</i></p>		
	<p><i>(5a) The Convention on the Protection of the Rights Of All Migrant Workers and Members of Their Families, of 18 December 1990, adopted by the General Assembly of the United Nations, is the most broadly based international legal framework for the protection of the rights of migrant workers and their families, and gives States guidance as to the approach to be adopted to ensure migrants' rights are respected when policies relating to the migration of labour are drawn up and implemented.</i></p>		<p><i>Agreement not to take up the EP amendment.</i></p>

⁵ COM(2005) 669.

	<i>Amendment 5</i>		
<p>(6) This Directive should contribute to the effective management of migration flows for the specific category of seasonal temporary migration by setting out fair and transparent rules for admission and stay, while at the same time providing for incentives and safeguards to prevent temporary stay from becoming permanent. In addition, the rules laid down in Directive 2009/52/EC of the European Parliament and of the European Council providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals⁶ will contribute to avoiding such temporary stay turning into illegal stay.</p>	<p>(6) This Directive should contribute to the effective management of migration flows for the specific category of seasonal temporary migration <i>and to ensuring decent working and living conditions for seasonal workers</i>, by setting out fair and transparent rules for admission and stay <i>and by defining the rights of seasonal workers in full respect of the relevant conventions of the International Labour Organisation (ILO)</i>, while at the same time providing for incentives and safeguards to prevent <i>overstaying and/or</i> temporary stay from becoming permanent. In addition, the rules laid down in Directive 2009/52/EC of the European Parliament and of the European Council <i>of 18 June 2009</i> providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals¹ will contribute to avoiding such temporary stay turning into illegal stay <i>and reducing the exploitation that such workers often suffer</i>.</p>	<p>(6) This Directive should contribute to the effective management of migration flows for the specific category of seasonal temporary migration by setting out fair and transparent rules for admission and stay, while at the same time providing for incentives and safeguards to prevent temporary stay from becoming permanent. In addition, the rules laid down in Directive 2009/52/EC of the European Parliament and of the European Council providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals will contribute to avoiding such temporary stay turning into illegal stay.</p>	<p><i>Agreement on:</i></p> <p>(6) This Directive should contribute to the effective management of migration flows for the specific category of seasonal temporary migration <i>and to ensuring decent working and living conditions for seasonal workers</i>, by setting out fair and transparent rules for admission and stay <i>and by defining the rights of seasonal workers</i> while at the same time providing for incentives and safeguards to prevent <i>overstaying and/or temporary stay</i> from becoming permanent. In addition, the rules laid down in Directive 2009/52/EC of the European Parliament and of the Council <i>of 18 June 2009</i> providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals⁷ will contribute to avoiding such temporary stay turning into <i>unauthorised</i> stay.</p>

⁶ OJ L 168, 30.6.2009, p. 24.

	Amendment 6		
	<p><i>(6a) Member States should give effect to the provisions of this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or beliefs, political or other opinions, membership of a national minority, fortune, birth, disabilities, age or sexual orientation in accordance, in particular, with Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin¹ and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation².</i></p>		<p><i>Agreement on EP AM.</i></p>
	Amendment 7		
	<p><i>(6b) This Directive should also take into account the obstacles which are generally encountered by female migrant seasonal workers, particularly women with underage children who, in addition to the difficulties of adapting to a foreign country and an unfamiliar working environment, also encounter</i></p>		<p><i>Agreement to drop this amendment.</i></p>

	<i>prejudice and stereotyping based on gender, race, colour and religion, as well as other forms of discrimination.</i>		
	Amendment 8		
(7) This Directive should be applied without prejudice to the principle of EU preference as regards access to Member States' labour market as expressed in the relevant provisions of Acts of Accession.	(7) This Directive should be applied without prejudice to the principle of EU preference as regards access to Member States' labour market as expressed in the relevant provisions of Acts of Accession. <i>In particular, preference should be given to workers from Member States for whom transitional arrangements as regards access to labour market still apply.</i>	(7) This Directive should be applied without prejudice to the principle of [...] Union preference as regards access to Member States' labour market as expressed in the relevant provisions of Acts of Accession. Therefore, nationals of the Member States concerned should be given preference over third-country nationals, during the transitional period specified in the relevant provisions of the Acts of Accession, with respect to access to the labour market.	<i>joint LIBE-EMPL competence</i> <i>Related to Article 6(2)</i> <i>Council suggestion:</i> (7) This Directive should be applied without prejudice to the principle of Union preference as regards access to Member States' labour market as expressed in the relevant provisions of the relevant Acts of Accession.
	Amendment 9		
(8) This Directive should be without prejudice to the right of the Member States to determine the volumes of admission of third-country nationals coming from third countries to their territory for the purposes of seasonal work as specified in Article 79(5) of the Treaty on the Functioning of the European Union.	(8) This Directive should be without prejudice to the right of the Member States to determine the volumes of admission, <i>including by setting quotas for certain sectors or regions,</i> of third-country nationals coming from third countries to their territory for the purpose of seasonal work as specified in Article 79(5) of the Treaty on the Functioning of the European Union.	(8) This Directive should be without prejudice to the right of the Member States to determine the volumes of admission of third-country nationals coming from third countries to their territory for the purposes of seasonal work as specified in [...] the Treaty.	<i>Pending</i> <i>Related to Article 7(5) and recital (16a)</i> <i>EP gives up on its amendment. Council suggests to maintain Council text.</i>

<p>(9) This Directive should not affect conditions of the provision of services in the framework of Article 56 of the TFEU. In particular, this Directive should not affect the terms and conditions of employment which, pursuant to Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services⁷, apply to workers posted by an undertaking established in a Member State to provide a service in the territory of another Member State.</p>		<p>(9) This Directive should not affect conditions of the provision of services in the framework of [...] the Treaty. In particular, this Directive should not affect the terms and conditions of employment which, pursuant to Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, apply to workers posted by an undertaking established in a Member State to provide a service in the territory of another Member State. Nor should this Directive apply to workers posted by undertakings established in a third-country to provide a service in the territory of a Member State.</p>	<p><i>LIBE competent for exclusions linked to admission and civil rights, EMPL competent for exclusions linked to the labour market and social security</i></p> <p><i>Related to Article 2(2)(a)</i></p> <p><i>Agreement to go back to the Commission text.</i></p>
			<p><i>Pending</i></p> <p><i>Presidency EP suggestion linked to Article 2(2)(b):</i></p> <p><i>(9a) This Directive aims at covering direct working relationships between seasonal workers and employers. However,</i></p>

⁷ OJ L 18, 21.1.1997, p. 1.

		<p><i>where a Member State's national law allows admission of third-country nationals as seasonal workers through employment or temporary work agencies established on its territory and which have a direct contract with the seasonal worker, such agencies should not be excluded from the scope of this Directive and, where the provisions of this Directive conflict with the provisions of Directive 2008/104 of the European Parliament and of the Council on temporary agency work (OJ L 327, 5.12.2008, p.9), this Directive should apply.</i></p> <p><i>Presidency suggestion:</i></p> <p><i>(9a) This Directive aims at covering direct working relationships between seasonal workers and employers. However, where a Member State's national law allows admission of third-country nationals as seasonal workers through employment or temporary work agencies established on its territory and which have a direct contract with the seasonal worker, such agencies should not be excluded from the</i></p>
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			<i>scope of this Directive. <u>In such a case, this Directive would apply by way of derogation from Directive 2008/104 of the European Parliament and of the Council on temporary agency work (OJ L 327, 5.12.2008, p. 9).</u></i>
	<i>Amendment 10</i>		
(10) Activities dependent on the passing of the seasons are typically to be found in sectors such as agriculture, during the planting or harvesting period, or tourism, during the holiday period.	(10) Activities dependent on the passing of the seasons are to be found in <i>the agriculture and horticulture sectors, for example</i> during the planting or harvesting periods, <i>and in the tourism sector, for example</i> during the holiday periods. <i>There should be the possibility for Member States to decide, with the involvement of the social partners and in consultation with them, to consider additional activities dependent on the passing of seasons as seasonal activities, for the purposes of this Directive</i>	(10) [...] Member States should be able to determine specific sectors of the economy and/or activities that meet the criteria for seasonal work as defined in this Directive such as agriculture, in particular during the planting or harvesting period, or tourism, in particular during the holiday period.	<i>Related to Article 2(1b)</i> <i>joint LIBE-EMPL competence</i> <i>Agreement on:</i> <i>(10) When transposing this Directive, Member States should, where appropriate in consultation with social partners, list those sectors of employment which include activities that are dependent on the passing of the seasons. Activities dependent on the passing of the seasons are typically to be found in sectors such as agriculture and horticulture, in particular during the planting or harvesting period, or tourism, in particular during the holiday period.</i>

		(10a) For reasons of justified national policy considerations and when laid down in national law and in accordance with the principle of non-discrimination as set out in Article 10 of the Treaty, Member States are allowed to apply different treatment to nationals of specific third countries when compared to the nationals of other third countries when implementing the optional provisions of this Directive.	<i>Agreement on: (10a) When laid down in national law and in accordance with the principle of non-discrimination as set out in Article 10 of the Treaty, Member States are allowed to apply more favourable treatment to nationals of specific third countries when compared to the nationals of other third countries when implementing the optional provisions of this Directive.</i>
	<i>Amendment 11</i>		
(11) It should only be possible to apply for admission as a seasonal worker while the applicant is residing outside the territory of the Member States.	(11) It should [...] be possible to apply for admission as a seasonal worker while the applicant is residing <i>either in or</i> outside the territory of the Member States.	(11) It should only be possible to apply for admission as a seasonal worker while the applicant is residing outside the territory of the Member States. However, this Directive should not prevent Member States from allowing employment, for the purpose of seasonal work and in accordance with national law, of third-country nationals already legally residing in the territory of the Member State concerned.	<i>Related to Article 2(1)(b) Agreement to go back to Commission text.</i>

	<i>Amendment 12</i>		
	<i>(11a) Third-country nationals who are residing irregularly in the EU should have the possibility of applying for a seasonal worker permit for a transitional period following the transposition of this Directive.</i>		<i>In the context of an overall political agreement, agreement to drop this amendment.</i>
	<i>Amendment 13</i>		
	<i>(11b) Admission for the purposes set out in this Directive may be refused on duly justified grounds. In particular, admission could be refused if a Member State considers, based on an assessment of the facts, that the third-country national concerned is a potential threat to public policy, public security or public health. The notion of public policy may cover a conviction for committing a serious crime as referred to in Article 2(2) of the Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States¹.</i>		<i>Related to Article 5b(3)</i> <i>Agreement on:</i> <i>(11b) Admission for the purposes set out in this Directive may be refused on duly justified grounds. In particular, admission could be refused if a Member State considers, based on an assessment of the facts, that the third-country national concerned is a potential threat to public policy, public security or public health.</i>

	<i>Amendment 14</i>		
	<i>(11c) This Directive should be without prejudice to the application of Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals¹.</i>		<i>Agreement on EP amendment.</i>
	<i>Amendment 15</i>		
(12) The Directive should not affect, where granted, the rights of third-country nationals already legally staying in a Member State to work.	(12) The Directive should not <i>adversely</i> affect [...] the rights of third-country nationals already legally staying in a Member State to work.	(12) The Directive should not affect, where granted, the rights of third-country nationals already legally staying in a Member State to work.	<i>joint LIBE-EMPL competence</i> <i>Agreement on:</i> (12) The Directive should not <i>adversely</i> affect, where granted, the rights of third-country nationals already legally staying in a Member State to work.
		(12a) Criteria and requirements for admission as well as grounds for refusal and withdrawal or non-extension/non-renewal for stays not exceeding three months are defined in this Directive as far as employment as a seasonal worker is concerned. When short-stay visas are issued for the purpose of seasonal work the relevant provisions of the Schengen acquis concerning the conditions of entry and stay in the territory of Member States as	<i>Agreement on Council text as Recital 12b.</i>

		<p>well as grounds for refusal, extension, annulment or revocation of those visas apply accordingly. In particular, any decision on refusal, annulment or revocation of a visa and the reasons on which it is based should be notified, in accordance with Article 32(2) and 34(6) of the Visa Code, to the applicant by means of the standard form set out in Annex VI of the Visa Code.</p>	
		<p>(12b) In the case of Member States applying the Schengen acquis in full both the Visa Code and the Schengen Borders Code apply. In the case of Member States not applying the Schengen acquis in full, with the exception of UK and Ireland, only the Schengen Borders Code applies. The provisions of the Schengen acquis referred to in the present Directive belong to that part of the Schengen <i>acquis</i> in which Ireland and the United Kingdom do not take part and therefore these provisions do not apply to them.</p>	<p><i>Agreement on:</i></p> <p><i>(12a) In the case of Member States applying the Schengen acquis in full, Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas⁸ (Visa Code), Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders⁹ (Schengen Borders Code), and Council Regulation (EC) No 539/2001 of 15 March 2001 listing third</i></p>

⁸ OJ L 243, 15.9.2009, p. 1.

⁹ OJ L 105, 13.4.2006, p. 1.

		<p><i>countries whose nationals must be in possession of visas when crossing the external borders and those nationals exempt from that requirement apply in their entirety. This entails that, for stays not exceeding three months, the conditions for admission of seasonal workers to the territory of the Member States applying the Schengen acquis in full are regulated by those instruments, while the present Directive should only regulate the criteria and requirements for access to employment. In the case of Member States not applying the Schengen acquis in full, with the exception of the United Kingdom and Ireland, only the Schengen Borders Code applies. The provisions of the Schengen acquis referred to in the present Directive belong to that part of the Schengen acquis in which Ireland and the United Kingdom do not take part and therefore these provisions do not apply to them.</i></p>
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			<p><i>Agreement on:</i></p> <p><i>(12c) For seasonal workers that are admitted for stays longer than three months, the present Directive should define both the conditions for admission to and stay in the territory and the criteria and requirements for access to employment in the Member States.</i></p>
	<i>Amendment 16</i>		
(13) The Directive should provide for a flexible entry system based on demand and objective criteria, such as a valid work contract or a binding job offer that specifies the level of remuneration applicable to seasonal workers in the sector concerned.	(13) The Directive should provide for a flexible entry system based on demand and objective criteria, such as a valid work contract or a binding job offer that specifies the <i>essential aspects of the contract or employment relationship.</i>	(13) The Directive should provide for a flexible entry system based on demand and objective criteria, such as a valid work contract or a binding job offer that specifies the level of remuneration applicable to seasonal workers in the sector concerned.	<p><i>joint LIBE-EMPL competence</i></p> <p><i>Related to Articles 5(1)(a) and 5b(1)(a)</i></p> <p><i>Agreement on EP amendment.</i></p>
	<i>Amendment 17</i>		
(14) Member States should have the possibility to apply a test demonstrating that a post cannot be filled from within the domestic labour market.	(14) <i>To ensure that the labour market is not adversely affected by the entry of third-country national seasonal workers,</i> Member States should have the possibility to apply a test demonstrating that a post cannot be filled from within the domestic labour market <i>by nationals of the Member State concerned, by other Union citizens or by third-country nationals lawfully residing in the Member State and already forming part of</i>	(14) Member States should have the possibility to apply a test demonstrating that a post cannot be filled from within the domestic labour market.	<p><i>joint LIBE-EMPL competence</i></p> <p><i>Related to Article 6(4)</i></p> <p><i>Agreement to go back to the Commission text.</i></p>

	<i>its labour market by virtue of EU or national law.</i>		
		(14a) Member States should be able to reject an application for admission in particular when the third-country national has not complied with the obligation arising from a previous admission decision as a seasonal worker to return to a third country on the expiry of an authorisation for the purpose of seasonal work.	<i>Related to Article 6(4)</i> <i>Agreement on:</i> (14a) Member States should be able to reject an application for admission in particular when the third-country national has not complied with the obligation arising from a previous admission decision as a seasonal worker to leave the territory of the Member State concerned on the expiry of an authorisation for the purpose of seasonal work.
		(14b) Member States should be able to require the employer to cooperate with the competent authorities and to provide all relevant information needed for granting, withdrawal or extension/renewal of the authorisation for the purpose of seasonal work in order to prevent possible abuse and misuse of the procedure set out in this Directive.	<i>Related to Article 7a:</i> <i>Agreement on:</i> (14b) Member States should be able to require the employer to cooperate with the competent authorities and to provide all relevant information needed in order to prevent possible abuse and misuse of the procedure set out in this Directive.

<p>(15) Provision for a single procedure leading to one combined document encompassing both residence and work permit, should contribute to simplifying the rules currently applicable in Member States. This should not affect the right of Member States to determine the national authorities and the way they should be involved in the single procedure, in accordance with national specificities of administrative organisation and practice.</p>		<p>(15) Provision for a single procedure leading to one combined [...] permit encompassing both [...] stay and work permit, should contribute to simplifying the rules currently applicable in Member States. This should not affect the right of Member States to determine the national authorities and the way they should be involved in the single procedure, in accordance with national specificities of administrative organisation and practice.</p>	<p><i>Agreement on Council text.</i></p>
		<p>(15a) The designation of the competent authorities under this Directive should be without prejudice to the role and responsibilities of other authorities and, where applicable, the social partners, with regard to the examination of, and the decision on, the application.</p>	<p><i>Agreement on:</i></p> <p><i>(15a) The designation of the competent authorities under this Directive should be without prejudice to the role and responsibilities of other authorities and, where applicable, the social partners, in accordance with national law and/or practice, with regard to the examination of, and the decision on, the application.</i></p>

		<p>(15b) The Directive provides for a degree of flexibility for Member States regarding the authorisations to be issued for the admission (entry, stay and work) of seasonal workers. Member States are, therefore, free to decide whether to issue work permits in addition to short-stay visas and long-stay visas. Nevertheless, in order to ensure that the conditions of employment as provided by the Directive have been checked and are met it should be made clear on the authorisations that they were issued for the purpose of seasonal work. In case only short-stay visas are issued, Member States should make use of the "remarks" heading of the visa sticker for this purpose.</p>	<p><i>Agreement on:</i></p> <p><i>(15b) The Directive provides for a degree of flexibility for Member States regarding the authorisations to be issued for the admission (entry, stay and work) of seasonal workers. The issuance of a long-stay visa in accordance with Article 9(2)(a) is without prejudice to the possibility for Member States to issue a prior authorisation to work in the Member State concerned. Nevertheless, in order to ensure that the conditions of employment as provided by the Directive have been checked and are met, it should be made clear on the authorisations that they were issued for the purpose of seasonal work. In case only short-stay visas are issued, Member States should make use of the "remarks" heading of the visa sticker for this purpose.</i></p>
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		<p><i>Council accepts EP proposal below and suggests in addition the changes indicated as underlined: "to issue" instead of "to grant" (equivalent changes in Articles 7(1) and (2), 7a, 8(2), 9(1) and (2) and 11(1)); insertion of the phrase: " or where the Member State did not apply Article 4(3) of that Regulation"; and deletion of "only":</i></p> <p><i>(15ba) For all stays not exceeding three months per 6-month period, Member States should choose to issue either a short-stay visa or a short-stay visa accompanied by a work permit in cases where the third-country national requires a visa in accordance with Regulation (EC) N° 539/2001. Where the third-country national is not subject to the visa obligation or where the Member State did not apply Article 4(3) of that Regulation, the Member States should issue a work permit to him or her. For all stays exceeding three months, Member States should choose to issue one of the following authorisations: a long-stay visa; a seasonal worker permit; or a seasonal worker permit</i></p>
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			<p><i>accompanied by a long-stay visa, if the long-stay visa is required under national law for entering the territory. <u>Nothing precludes Member States from delivering a work permit directly to the employer.</u></i></p> <p>.</p>
			<p><i>Agreement on the following new recital, in conjunction with Article 9(6):</i></p> <p><i>(15c) When a visa is required for the sole purpose of entering the territory of a Member State and the third-country national fulfils the conditions for being issued a seasonal worker permit, the Member State concerned should grant the third-country national every facility to obtain the requisite visa and should ensure that the competent authorities effectively cooperate to that purpose.</i></p>

	<i>Amendment 18</i>		
<p>(16) The duration of stay should be limited to a maximum period per calendar year which, together with the definition of seasonal work, should ensure that the work is of genuinely seasonal nature. Provision should be made that within that maximum duration of stay, an extension of the contract or change of employer is possible. This should serve to reduce risks of abuses that seasonal workers may face if tied to a single employer and at the same time provide for a flexible response to employers' actual workforce needs.</p>	<p>(16) The duration of stay should be limited to a maximum period <i>of six months within a 12-month period</i> which, together with the definition of seasonal work, should ensure that the work is of genuinely seasonal nature. Provision should be made that within that maximum duration of stay, an extension of the contract or change of employer is possible, <i>provided that the criteria of admission continue to be met.</i> This should serve to reduce risks of abuses that seasonal workers may face if tied to a single employer and at the same time provide for a flexible response to employers' actual workforce needs. <i>Furthermore, extension allows higher earnings and remittances sent by third-country national seasonal workers which, in turn, can contribute to the development of their countries of origin. However, it should be ensured that abuses of the provisions and purpose of this Directive through an extension of contract or a change of employer are avoided.</i></p>	<p>(16) Member States should be able to determine the maximum duration of stay for the purposes of seasonal employment within any period of twelve months referred to in this Directive.</p>	<p><i>Related to Article 11(1)</i></p> <p><i>Pending</i></p> <p><i>EP proposes the following compromise:</i></p> <p>(16) The <i>maximum</i> duration of stay should <i>be fixed by Member States and limited to a period of between</i> which, together with the definition of seasonal work, should ensure that the work is of genuinely seasonal nature. Provision should be made that within that maximum duration of stay, an extension of the contract or change of employer is possible, provided that the criteria of admission continue to be met. This should serve to reduce risks of abuses that seasonal workers may face if tied to a single employer and at the same time provide for a flexible response to employers' actual workforce needs.</p> <p><i>Presidency suggests the following compromise:</i></p> <p>(16) The <i>maximum</i> duration of stay should <i>be fixed by Member States and limited to a period of between</i></p>

			<p><i>five to nine months</i> which, together with the definition of seasonal work, should ensure that the work is of genuinely seasonal nature. Provision should be made that within that maximum duration of stay, an extension of the contract or change of employer is possible, provided that the criteria of admission continue to be met. This should serve to reduce risks of abuses that seasonal workers may face if tied to a single employer and at the same time provide for a flexible response to employers' actual workforce needs. <i>The possibility for the seasonal worker to be employed with a different employer under the conditions laid down in this Directive should not entail the possibility for the seasonal worker to seek employment on the territory of the Member States while being unemployed.</i></p>
		<p>(16a) When deciding on the extension and renewal of the authorisation for the purpose of seasonal work Member States should be able to take into consideration the labour market situation as well as any quota set in general or for certain</p>	<p><i>Related to Article 7(5)</i></p> <p><i>Pending</i></p> <p><i>Council suggestion as part of an overall agreement:</i></p> <p><i>(16a) When deciding on the</i></p>

		professions, economic sectors or regions.	<i>extension of stay or the and renewal of the authorisation for the purpose of seasonal work, Member States should be able to take into consideration the labour market situation.</i>
		(16b) The possibility to change employers, in accordance with the procedure defined by national law and/or practice, should be given in the specific cases referred to in the Directive where the employer does not fulfil its obligations and could be given in order to reduce the risk of abuse that seasonal workers employed by one single employer might face.	<i>Related to Article 11(2a) Agreement to delete recital (16b).</i>
		(16c) In cases where a seasonal worker has been admitted for a stay not exceeding three months and where the Member State decides to extend it beyond three months, the short-stay visa should be replaced either by a long-stay visa or a seasonal worker permit provided that the seasonal worker complies with the provisions of Articles 5, 5b and 6.	<i>Agreement on: (16c) In cases where a seasonal worker has been admitted for a stay not exceeding three months and where the Member State has decided to extend it beyond three months, the short-stay visa should be replaced either by a long-stay visa or a seasonal worker permit.</i>

	<i>Amendment 19</i>		
<p>(17) Circular migration of third-country national seasonal workers should be promoted. In order for seasonal workers to have employment prospects in the EU for periods beyond a single season and for EU employers to be able to rely on a more stable and already trained workforce, the possibility of access to seasonal employment for several consecutive years should be provided, either through a multi-seasonal worker permit or a facilitated procedure. This procedure should include preference over admissions of third-country nationals applying to be admitted as seasonal workers for the first time or reduced processing times, or less documentary evidence being required.</p>	<p>(17) [...] In order for seasonal workers to have employment prospects in the EU for periods beyond a single season and for EU employers to be able to rely on a more stable and already trained workforce, the possibility of access to seasonal employment for several consecutive years should be provided, either through a multi-seasonal worker permit or a facilitated procedure. This procedure should include preference over admissions of third-country nationals applying to be admitted as seasonal workers for the first time or reduced processing times, or less documentary evidence being required, <i>provided that the criteria for admission under this Directive are still met. Such arrangements should not affect, or circumvent, the requirement that the employment be of a seasonal nature.</i></p>	<p>(17) [...] Taking into account certain aspects of circular migration as well as [...] of third-country seasonal workers beyond one single season and [...] interests of EU employers to be able to rely on a more stable and already trained workforce, the possibility of access to seasonal employment for several consecutive years [...] could be provided, either through [...] three seasonal worker permits covering up to three subsequent seasons issued in one administrative act or a facilitated procedure. This procedure should include preference over admissions of third-country nationals applying to be admitted as seasonal workers for the first time or reduced processing times, or less documentary evidence being required.</p>	<p><i>Pending</i></p> <p><i>Related to Article 12</i></p> <p><i>Presidency suggestion:</i></p> <p><i>(17) Taking into account certain aspects of circular migration as well as employment prospects of third-country seasonal workers beyond one single season and interests of EU employers to be able to rely on a more stable and already trained workforce, the possibility of facilitated admission procedures for bona fide third-country nationals having been admitted as seasonal workers in a Member State at least once within the previous 5 years, and having always respected all criteria and conditions provided under this Directive for entry and stay in the Member State concerned, should be provided. Such arrangements should not affect, or circumvent, the requirement that the employment be of a seasonal nature.</i></p>

	<i>Amendment 20</i>		
	<i>(17a) Member States should do their best to cooperate with third countries in seeking to ensure that information on conditions of entry and residence, including rights and procedural safeguards as laid down in this Directive and all documentary evidence needed for an application to reside and work in the territory of a Member State as a seasonal worker, is made available to prospective seasonal workers and employers.</i>		<p>Agreement on:</p> <p><i>(17a) Member States should do their best to ensure that information on conditions of entry and residence, including the rights and obligations and the procedural safeguards as laid down in this Directive and all documentary evidence needed for an application to reside and work in the territory of a Member State as a seasonal worker, is made available to applicants.</i></p>
	<i>Amendment 21</i>		
	<i>(17b) Member States should provide for effective, proportionate and dissuasive sanctions against employers in the event of breaches of their obligations under this Directive. Such sanctions should include, if appropriate, adequate compensation for seasonal workers. Member States could also subject those employers to additional sanctions such as exclusion from entitlement to public benefits, aid or subsidies, exclusion from participation in a public contract, recovery of public benefits, aid or subsidies, including Union funding managed</i>		<p>Linked to Article 12a on sanctions:</p> <p>Agreement on:</p> <p><i>(17b) Member States should provide for effective and proportionate sanctions against employers in the event of breaches of their obligations under this Directive. Those could consist of sanctions as provided for in Article 7 of Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying</i></p>

	<i>by Member States, or temporary or permanent closure of the establishments that have been used to commit the infringement.</i>		<i>third-country nationals. Such sanctions should include, if appropriate, liability of the employer to pay compensation to seasonal workers. The necessary mechanisms should be in place to enable seasonal workers to obtain the compensation to which they are entitled even if they are no longer on the territory of the Member State in question.</i>
	<i>Amendment 22</i>		
(18) A set of rules governing the procedure for examining applications for admission as a seasonal worker should be laid down. Those procedures should be effective and manageable, taking account of the normal workload of Member States' administrations, as well as transparent and fair, in order to offer appropriate legal certainty to those concerned.	(18) A set of rules governing the procedure for examining applications for admission as a seasonal worker should be laid down. Those procedures should be effective and manageable, taking account of the normal workload of Member States' administrations, as well as transparent and fair, in order to offer appropriate legal certainty to those concerned. <i>Any rejection decision should be duly reasoned and provide information on redress procedures.</i>	(18) A set of rules governing the procedure for examining applications for admission as a seasonal worker should be laid down. Those procedures should be effective and manageable, taking account of the normal workload of Member States' administrations, as well as transparent and fair, in order to offer appropriate legal certainty to those concerned.	<i>Related to Articles 13(3) and 13(3a)</i> <i>Agreement on the Commission text.</i>

	<i>Amendment 23</i>		
	<i>(18a) In order to reduce the risk of abuses, Member States should be encouraged to introduce a licensing system for recruitment agencies mandated to place third-country nationals as seasonal workers. The costs for placing services should be proportionate and borne by the employers. Member States should call on employers to recruit seasonal workers through individual applications or licensed agencies.</i>		<i>Agreement to drop the amendment.</i>
		(18a) In the case of short-stay visas the procedural safeguards are governed by the relevant provisions of the Schengen acquis.	<i>Agreement on Council text.</i>
			<i>Related to Article 11(3) and Article 13(1)</i> <i>Pending</i> <i>Presidency suggestion:</i> <i>(18b) The competent authorities of the Member States should decide on applications for an authorisation for seasonal work as soon as possible. In relation to applications for an extension or renewal, where filed within the</i>

			<p><i>validity of the authorisation, Member States should take all reasonable steps to ensure that the seasonal worker is not obliged to interrupt his or her employment relationship with the same employer, or prevented from changing employer, due to on-going administrative procedures. <u>Applicants should submit their application for extension or renewal as soon as possible.</u> In any event, the seasonal worker should be allowed to stay on the territory of the Member State concerned, and where appropriate to continue working, until a final decision on the application has been taken by the competent authorities.</i></p>
			<p><i>Presidency suggestion:</i></p> <p><i>(18ba). Given the nature of seasonal work, Member States are encouraged not to charge a fee for the handling of applications. In the event that a Member State nevertheless decides to charge a fee, such a fee should not be disproportionate or excessive.</i></p>

	<i>Amendment 24</i>		
(19) In order to ensure that seasonal workers have adequate accommodation during their stay, including at a reasonable cost, provision should be made to require employers to provide the evidence of the accommodation they or third-parties provide.	(19) In order to ensure that seasonal workers have adequate accommodation that ensures a decent standard of living during their stay, provision should be made to require employers to provide evidence of the accommodation they provide themselves or <i>via</i> third parties. The cost of this accommodation should not be excessive and should reflect the market rate of the area in question. The cost of the rent should not be automatically deducted from the seasonal worker's wage. To ensure transparency, seasonal workers should be given a rental contract in which the conditions and cost of the accommodation are clearly stated. These provisions should be without prejudice to the possibility for seasonal workers to freely choose their own accommodation. Any change of accommodation should be reported to the competent authorities.	(19) In order to ensure that seasonal workers have adequate accommodation during their stay, including at a reasonable cost, provision should be made to require [...] applicants to provide the evidence of the accommodation they or third-parties provide.	<i>joint LIBE-EMPL competence</i> <i>Agreement on:</i> (19) Seasonal workers should all benefit from accommodation that ensures an adequate standard of living, with the competent authority informed of any change of accommodation. Where that accommodation is arranged by or through the employer, the rent should not be excessive in relation to his/her net remuneration nor to the quality of that accommodation; the seasonal worker's rent should not be automatically deducted from his/her wage; the employer should provide the seasonal worker with a rental contract or equivalent document stating the rental conditions for the accommodation, and the employer should ensure that the accommodation meets the general health and safety standards in force in the Member State concerned.

	<i>Amendment 25</i>		
	<p><i>(19a) Third-country nationals who are in possession of a valid travel document and a seasonal worker permit issued under this Directive by a Member State applying the Schengen acquis in full, should be allowed to enter into and move freely within the territory of the Member States applying the Schengen acquis in full, for a period up to three months in accordance with Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)¹ and Article 21 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders² (Schengen Implementing Convention).</i></p>		<p><i>Agreement on.</i></p> <p><i>(19a) Third-country nationals who are in possession of a valid travel document and an authorisation for the purpose of seasonal work issued under this Directive by a Member State applying the Schengen acquis in full, should be allowed to enter into and move freely within the territory of the Member States applying the Schengen acquis in full, for a period up to three months in accordance with Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)¹ and Article 21 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders² (Schengen Implementing Convention).</i></p>

	<i>Amendment 26</i>		
<p>(20) Considering the specially vulnerable situation of third-country national seasonal workers and the temporary nature of their assignment, there is a need to define clearly the working conditions applicable to such workers in order to ensure legal certainty by referring such conditions to generally binding instruments providing effective protection of the rights of third-country seasonal workers, such as law or universally applicable collective agreements.</p>	<p>(20) Considering the specially vulnerable situation of third-country national seasonal workers and the temporary nature of their assignment, there is a need to provide effective protection of the rights of third-country <i>national</i> seasonal workers, also in the social security field, to check regularly for compliance and to fully guarantee respect for the principle of equal treatment with workers who are nationals of the host Member State, following in particular the principles laid down in Articles 15, 21 and 34 of the Charter of Fundamental Rights of the European Union and abiding therefore by the principle of the same pay for the same work in the same workplace, by applying collective agreements and other arrangements on working conditions which have been concluded at all possible levels or for which there is statutory provision, in accordance with national law and practice, under the same terms as to nationals of the host Member State.</p>	<p>(20) Considering the specially vulnerable situation of third-country national seasonal workers and the temporary nature of their assignment, there is a need to [...] provide effective protection of their rights. For the sake of legal certainty, therefore, the work contract or a binding job offer should specify clearly the working conditions which should be in conformity with applicable laws, collective agreements and/or practices of the given Member State.</p>	<p><i>exclusive EMPL competence</i></p> <p><i>Pending</i></p> <p><i>Related to Article 16</i></p> <p><i>Council can accept the following EMPL Rapporteur's proposal:</i></p> <p>(20) Considering the specially vulnerable situation of third-country national seasonal workers and the temporary nature of their assignment, there is a need to provide effective protection of the rights of third-country <i>national</i> seasonal workers, also in the social security field, to check regularly for compliance and to fully guarantee respect for the principle of equal treatment with workers who are nationals of the host Member State, abiding by the <u>concept principle</u> of the same pay for the same work in the same workplace, by applying collective agreements and other arrangements on working conditions which have been concluded at all possible levels or for which there is statutory provision, in accordance with</p>

			<i>national law and practice, under the same terms as to nationals of the host Member State.</i>
	Amendment 27		
	<i>(20a) This Directive shall apply without prejudice to the rights and principles contained in the European Social Charter of 18 October 1961.</i>		Agreement on: <i>(20a) This Directive should apply without prejudice to the rights and principles contained in the European Social Charter of 18 October 1961 and, where relevant, the European Convention on the Legal Status of Migrant Workers of 24 November 1977.</i>
	Amendment 28		
(21) In the absence of a system for declaring collective agreements of universal application, Member States may base themselves on collective agreements which are generally applicable to all similar undertakings in the geographical area and in the profession or industry concerned, and/or collective agreements which have been concluded by the most representative employers' and labour organisations at national level and which are applied throughout national territory.	<i>(21) In addition to the legislative, administrative and regulatory provisions applicable to workers who are nationals of the host Member State, arbitration decisions and collective agreements and contracts concluded at any level, in accordance with the host Member State's national law and practice, should also apply to third-country national seasonal workers under the same terms as to nationals of the host Member State.</i>	<i>deleted</i>	<i>exclusive EMPL competence</i> Agreement on: <i>(21) In addition to the legislative, administrative and regulatory provisions applicable to workers who are nationals of the host Member State, arbitration decisions and collective agreements and contracts concluded at any level, in accordance with the host Member State's national law and practice, should also apply to third-country national seasonal workers under the same terms as to nationals of</i>

			<i>the host Member State.</i>
	Amendment 29		
<p>(22) Third-country national seasonal workers should be granted equal treatment in respect of those branches of social security listed in Article 3 of Regulation (EC) No 883/04 on the coordination of social security systems. This Directive should not confer more rights than those already provided in existing EU legislation in the field of social security for third-country nationals who have cross-border interests between Member States. Furthermore, this Directive should not grant rights in relation to situations which lie outside the scope of that EU legislation such as, for example, to family members residing in a third country. This is without prejudice to the non discriminatory application by Member States of national legislation providing for de minimis rules on contributions to pension systems.</p>	<p>(22) Adequate social security coverage for seasonal workers is a key element of this Directive and important for ensuring that their working and living conditions while staying in the Union are decent. Third-country national seasonal workers should be granted equal treatment in respect of those branches of social security listed in Article 3 of Regulation (EC) No 883/2004 on the coordination of social security systems¹. This Directive should not confer more rights than those already provided in existing EU legislation in the field of social security for third-country nationals who have cross-border interests between Member States. Furthermore, this Directive should not grant rights in relation to situations which lie outside the scope of that EU legislation such as, for example, to family members residing in a third country. This is without prejudice to the non discriminatory application by Member States of national</p>	<p>(22) Third-country national seasonal workers should be granted equal treatment in respect of those branches of social security listed in Article 3 of Regulation (EC) No 883/04 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems¹⁰. The Directive does not harmonise the social security legislation of Member States. It is limited to applying the principle of equal treatment in the field of social security to the persons falling under its personal scope. This Directive should not confer more rights than those already provided in existing [...] Union legislation in the field of social security for third-country nationals who have cross-border interests between Member States. Due to the temporary nature of their stay in the territory of a Member State, third-country nationals admitted for the purpose of seasonal employment under this Directive</p>	<p><i>exclusive EMPL competence</i></p> <p><i>Related to Article 16</i></p> <p><i>Pending</i></p> <p><i>Presidency suggestion in combination with deletion of recital (22b) and subject to changes following agreement on Art 16:</i></p> <p>(22) Third-country national seasonal workers should be granted equal treatment in respect of those branches of social security listed in Article 3 of Regulation (EC) No 883/04 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems¹¹ The Directive does not harmonise the social security legislation of Member States and does not cover social assistance. It is limited to applying the principle of equal treatment in the field of social security to the persons falling under its personal scope. This</p>

¹⁰ OJ L 166, 30.4.2004, p. 1.

¹¹ OJ L 166, 30.4.2004, p. 1.

	<p>legislation providing for <i>de minimis</i> rules on contributions to pension systems. <i>Without prejudice to bilateral agreements providing for better social security coverage, Member States should establish mechanisms which ensure effective social security coverage during the stay and the mechanisms for exporting acquired rights where applicable. This may include special adjustments, for example in terms of the qualifying or the waiting period.</i></p>	<p>would not, in most cases, qualify for unemployment benefits. Member States are, therefore, given the possibility to restrict equal treatment in respect of unemployment benefits. This Directive does not provide for family reunification and accordingly does not confer rights on family members of a seasonal worker. Furthermore, this Directive [...] does not grant rights in relation to situations which lie outside the scope of EU legislation such as, for example, to family members residing in a third country. This should not, however, affect the right of survivors who derive rights from the seasonal worker to receive survivor's pensions when residing in a third country. This is without prejudice to the non-discriminatory application by Member States of national legislation providing for <i>de minimis</i> rules on contributions to pension systems.</p>	<p>Directive should not confer more rights than those already provided in existing <i>Union</i> legislation in the field of social security for third-country nationals who have cross-border interests between Member States.</p> <p><i>Due to the temporary nature of the stay of third-country nationals admitted for the purpose of seasonal employment under this Directive and without prejudice to Council Regulation (EC) No 1231/2010, Member States should have the possibility to exclude family benefits and unemployment benefits from equal treatment of seasonal workers and to limit the application of equal treatment in relation to education and vocational training, as well as tax benefits.</i></p> <p><i>This Directive does not provide for family reunification.</i> Furthermore, this Directive does not grant rights in relation to situations which lie outside the scope of EU legislation such as, for example, to family members residing in a third country. This should not, however, affect the right of survivors who</p>
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			<i>derive rights from the seasonal worker to receive survivor's pensions when residing in a third country.</i> This is without prejudice to the non-discriminatory application by Member States of national legislation providing for <i>de minimis</i> rules on contributions to pension systems. <i>Mechanisms should be in place, in order to ensure effective social security coverage during the stay and the exporting of acquired rights of the seasonal workers, where applicable.</i>
	Amendment 30		
	<i>(22a) Union law does not limit the power of the Member States to organise their social security schemes. In the absence of harmonisation at Union level, each Member State is responsible for laying down in its legislation the rules governing the granting of social security benefits, as well as the amount and duration of such benefits. However, when exercising that power, Member States should comply with Union law.</i>	(22a) Union law does not limit the power of the Member States to organise their social security schemes. In the absence of harmonisation at Union level, it is for each Member State to lay down the conditions under which social security benefits are granted, as well as the amount of such benefits and the period for which they are granted. However, when exercising that power, Member States should comply with Union law.	<i>Related to Article 16(1)(d)</i> <i>Agreement on:</i> <i>(22a) Union law does not limit the power of the Member States to organise their social security schemes. In the absence of harmonisation at Union level, it is for each Member State to lay down the conditions under which social security benefits are granted, as well as the amount of such benefits and the period for which they are granted. However, when exercising</i>

			<i>that power, Member States should comply with Union law.</i>
	Amendment 31		
	<i>(22b) Member States should at least give equal treatment to those third-country nationals who are in employment or who, after a period of employment, are registered as unemployed. Any restrictions to the equal treatment in the field of social security under this Directive should be without prejudice to the rights conferred in application of Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality¹.</i>		<i>Related to Article 16</i> <i>Pending</i> <i>(22aa) Any restrictions to the equal treatment in the field of social security under this Directive should be without prejudice to the rights conferred in application of Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality¹.</i>
		(22b) Similarly to other Directives in the field of legal migration, the notion of goods and services in this Directive does not include study and maintenance grants and loans or other grants regarding education and vocational training.	<i>Related to Article 16(1)(d)</i> <i>Pending</i> <i>Presidency suggestion to delete recital (22b) in combination with modifications of recital (20).</i>

			<p><i>Pending</i></p> <p><i>Council suggests to delete recital (22ba) as its content is integrated in Article 16(2)(b).</i></p>
	<i>Amendment 32</i>		
	<p><i>(22c) To ensure the proper enforcement of this Directive, and in particular the provisions regarding rights, working conditions and accommodation, Member States should ensure that appropriate mechanisms for the monitoring of employers, recruitment agencies or other intermediaries are put in place and that effective and adequate inspections are carried out on their territory. With a view to increasing the effectiveness of those inspections, Member States should ensure that national legislation gives adequate powers and resources to competent authorities to carry out inspections; that the results of previous inspections are collected and processed for the effective implementation of this Directive; and that sufficient staff are available with the skills and qualifications needed to carry out inspections effectively.</i></p>		<p><i>Related to Articles 12a(4) and 16a</i></p> <p><i>Agreement on:</i></p> <p><i>(22c) To ensure the proper enforcement of this Directive, and in particular the provisions regarding rights, working conditions and accommodation, Member States should ensure that appropriate mechanisms for the monitoring of employers, are in place and that, where appropriate, effective and adequate inspections are carried out on their territory. The selection of employers to be inspected should be based primarily on a risk assessment to be carried out by the competent authorities in the Member States taking into account factors such as the sector in which a company operates and any past record of infringement.</i></p>

	<i>Amendment 33</i>		
(23) To facilitate enforcement, relevant designated third parties such as trade unions or other associations should be able to lodge complaints in order to ensure effective application of the Directive. This is considered necessary to address situations where seasonal workers are unaware of the existence of enforcement mechanisms or hesitant to use these in their own name, out of fear of possible consequences.	(23) To facilitate enforcement <i>of this Directive, Member States should put in place effective mechanisms through which seasonal workers may seek legal redress and lodge complaints directly or through</i> relevant third parties such as trade unions or other associations. This is considered necessary to address situations where seasonal workers are unaware of the existence of enforcement mechanisms or hesitant to use these in their own name, out of fear of possible consequences. <i>Seasonal workers should have access to judicial protection against victimisation as a result of a complaint being made.</i>	(23) To facilitate enforcement, relevant designated third parties such as trade unions or other associations should be able to lodge complaints in order to ensure effective application of the Directive. This is considered necessary to address situations where seasonal workers are unaware of the existence of enforcement mechanisms or hesitant to use these in their own name, out of fear of possible consequences.	<i>joint LIBE-EMPL competence</i> <i>Related to Article 17</i> <i>Agreement on EP amendment.</i>
	<i>Amendment 34</i>		
	<i>(23a) Producing statistics on seasonal employment in the Member States should also help to clarify the differences between countries and highlight the role and specific problems of women who do seasonal work.</i>		<i>Agreement to drop the amendment.</i>

	<i>Amendment 35</i>		
<p>(24) Since the objectives, namely the introduction of a special admission procedure and the adoption of conditions on entry and residence for the purpose of seasonal employment by third-country nationals, cannot be sufficiently achieved by Member States and can therefore be better achieved at Union level, the Union may adopt measures in accordance with the subsidiarity principle as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.</p>	<p>(24) Since the objectives, namely the introduction of a special admission procedure, the adoption of conditions on entry and residence for the purpose of seasonal employment by third-country nationals and the definition of their rights as seasonal workers, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures in accordance with the principle of <i>subsidiarity</i> as set out in Article 5 of the Treaty on European Union, taking account of immigration and employment policies at European and national level. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.</p>	<p>(24) Since the objectives, namely the introduction of a special admission procedure and the adoption of conditions on entry and [...] stay for the purpose of seasonal employment by third-country nationals, cannot be sufficiently achieved by Member States and can therefore be better achieved at Union level, the Union may adopt measures in accordance with the subsidiarity principle as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.</p>	<p><i>Agreement on EP amendment.</i></p>

	<i>Amendment 36</i>		
(25) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.	(25) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, <i>in accordance with Article 6 of the Treaty on European Union.</i>	(25) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.	<i>Agreement on</i> (25) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union <i>in particular, Articles 7, 15(3), 17, 27, 28, 31 and 33(2) thereof, in accordance with Article 6 of the Treaty on the European Union.</i>
		(25a) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.	<i>Agreement on Council text.</i>

<p>(26) In accordance with Articles 1 and 2 of Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Directive, and are not bound by it or subject to its application.</p>		<p>(26) In accordance with Articles 1 and 2 of Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Directive, and are not bound by it or subject to its application.</p>	
<p>(27) In accordance with Articles 1 and 2 of Protocol (No 22) on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive, and is not bound by it or subject to its application,</p>		<p>(27) In accordance with Articles 1 and 2 of Protocol (No 22) on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive, and is not bound by it or subject to its application,</p>	
<p>HAVE ADOPTED THIS DIRECTIVE:</p>		<p>HAVE ADOPTED THIS DIRECTIVE:</p>	

CHAPTER I General provisions		CHAPTER I General provisions	
<i>Article 1</i> <i>Subject-matter</i>		<i>Article 1</i> <i>Subject-matter</i>	
	<i>Amendment 37</i>		
This Directive determines the conditions of entry and residence of third-country nationals for the purposes of employment as seasonal workers and defines the rights of seasonal workers.	This Directive determines the conditions of entry and residence of third-country nationals for the purposes of employment as seasonal workers, <i>the type of work they may undertake in this capacity and the time they may remain in the Member State concerned for this purpose</i> , and defines the rights of seasonal workers.	1. This Directive determines the conditions of entry and [...] stay of third-country nationals for the purposes of employment as seasonal workers and defines the rights of seasonal workers.	<i>Agreement on Council text.</i>
		2. The provisions of this Directive shall apply without prejudice to the Schengen acquis, in particular Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas¹², Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the	<i>Agreement on:</i> 2. For stays not exceeding three months, the provisions of this Directive shall apply without prejudice to the Schengen acquis in particular Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas ¹⁵ , Regulation (EC) No 562/2006 of the European Parliament and of the

¹² OJ L 243, 15.9.2009, p. 1.

		movement of persons across borders¹³, and Council Regulation (EC) No 539/2001 of 15 March 2001 listing third countries whose nationals must be in possession of visas when crossing the external borders and those nationals exempt from that requirement¹⁴.	Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders ¹⁶ , and Council Regulation (EC) No 539/2001 of 15 March 2001 listing third countries whose nationals must be in possession of visas when crossing the external borders and those nationals exempt from that requirement ¹⁷ .
<i>Article 2 Scope</i>		<i>Article 2 Scope</i>	
	<i>Amendment 38</i>		
1. This Directive shall apply to third-country nationals who reside outside the territory of the Member States and apply to be admitted to the territory of a Member State for the purpose of employment as seasonal workers.	1. This Directive shall apply to: (a) third-country nationals who reside outside the territory of the Member States and apply to be admitted to the territory of a Member State for the purpose of employment as seasonal workers;	1. This Directive shall apply to third-country nationals who reside outside the territory of the Member States and apply to be admitted or who have been admitted, under the terms of this Directive , to the territory of a Member State for the purpose of employment as seasonal workers.	<i>Agreement on Council text.</i> <i>New Presidency suggestion:</i> This Directive shall apply to third-country nationals who reside outside the territory of the Member States and apply to be admitted or who have been admitted, under the terms of this Directive , to the territory of a Member State for the purpose of employment as seasonal workers. <i>This Directive shall not</i>

¹⁵ OJ L 243, 15.9.2009, p. 1.

¹³ OJ L 105, 13.4.2006, p. 1.

¹⁴ OJ L 81, 21.3.2001, p. 1.

¹⁶ OJ L 105, 13.4.2006, p. 1.

¹⁷ OJ L 81, 21.3.2001, p. 1.

			<u>apply to third-country nationals who at the time of application reside in the territory of Member States with the exception of cases referred to in Article 11a.</u>
	<i>(b) third-country nationals who are legally staying in the territory of a Member State and who apply for a seasonal worker permit in that Member State.</i>		<i>Related to recital (11). Pending</i>
	<i>Amendment 39</i>		<i>Related to Article 2(1)(b) (AM 38)</i>
	<i>1a. This Directive shall not apply to third-country nationals:</i>		<i>Pending</i>
	<i>(a) who are beneficiaries of international protection under Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted¹;</i>		
	<i>(b) who are authorised to reside in a Member State on the basis of temporary protection or have applied for authorisation to reside on that basis and are awaiting a decision on their status;</i>		

	<i>(c) who are family members of Union citizens who have exercised their right to free movement within the Union, in conformity with Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States²;</i>		<i>cf paragraph 2 point c in Council text</i>
	<i>(d) who enjoy long-term resident status in a Member State in accordance with Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents³.</i>		
	<i>Amendment 40</i>		
	<i>1b. This Directive shall apply to the agriculture, horticulture and tourism sectors. Member States may, with the involvement of the social partners and in consultation with them, decide to extend its application to additional activities that are dependent on the passing of the seasons.</i>		<i>Related to recital (10). Agreement on (+ EP request to underline that the report by the Commission should include this issue): 1a. When transposing this Directive, Member States shall, where appropriate in consultation with social partners, list those sectors of employment which include activities that are dependent on the passing of the</i>

			<i>seasons. The list of sectors which include activities that are dependent on the passing of the seasons may be modified by Member States, where appropriate after consultation of the social partners. The Member States shall inform the Commission of such modifications.</i>
	<i>Amendment 41</i>		
	<i>1c. This Directive shall not affect the application of the common visa policy.</i>		<i>Agreement to drop AM 41 following agreement on Article 1(2).</i>
	<i>Amendment 42</i>		
2. This Directive shall not apply to third-country nationals who are carrying out activities on behalf of undertakings established in another Member State in the framework of a provision of services within the meaning of Article 56 of the Treaty on the Functioning of the European Union, including those posted by undertakings established in a Member State in the framework of a provision of service in accordance with Directive 96/71/EC.	2. This Directive shall not apply to third-country nationals who are carrying out activities on behalf of undertakings established in another Member State in the framework of a provision of services within the meaning of Article 56 of the Treaty on the Functioning of the European Union, including those posted by undertakings established in a Member State in the framework of a provision of service in accordance with Directive 96/71/EC. <i>Seasonal workers shall not be posted by an undertaking established in a Member State to provide a service in the territory of another Member State.</i>	2. This Directive shall not apply to third-country nationals [...]: a) who are posted in the framework of the provision of services, irrespective of whether the undertaking is established in a Member State or in a non-Member State, as long as they are posted.	<i>LIBE competent for exclusions linked to admission and civil rights, EMPL competent for exclusions linked to the labour market and social security.</i> <i>Agreement to go back to the Commission text.</i>

		b) who are working for and being assigned by employment agencies, temporary work agencies or any other undertakings engaged in making available labour to work under the supervision and direction of another undertaking.	<p><i>Pending</i></p> <p><i>Related to Article 14a Council text and recital (9a):</i></p> <p><i>As part of an overall agreement, Council suggests to delete point b) Council text and amend recital (9a).</i></p>
		c) who are family members of Union citizens who have exercised their right to free movement within the Union, in conformity with Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.	<p><i>cf EP amendment 39</i></p> <p><i>Agreement on Council text.</i></p>
		d) who, together with their family members, and irrespective of their nationality, enjoy rights of free movement equivalent to those of Union citizens under agreements either between the Union and the Member States or between the Union and third countries;	<p><i>Agreement on Council text.</i></p>

<i>Article 3 Definitions</i>		<i>Article 3 Definitions</i>	
For the purposes of this Directive, the following definitions shall apply:		For the purposes of this Directive, the following definitions shall apply:	<i>Identical</i>
(a) ‘third-country national’ means any person who is not a citizen of the European Union within the meaning of Article 20(1) of the Treaty on the Functioning of the European Union;		(a) ‘third-country national’ means any person who is not a citizen of the European Union within the meaning of Article 20 (1) of the Treaty on the Functioning of the European Union;	<i>Identical</i>
	<i>Amendment 43</i>		
(b) ‘seasonal worker’ means a third-country national who retains a legal domicile in a third country but resides temporarily for the purposes of employment in the territory of a Member State in a sector of activity dependent on the passing of the seasons, under one or more fixed-term work contracts concluded directly between the third-country national and the employer established in a Member State;	(b) ‘seasonal worker’ means a third-country national who [...] resides temporarily, <i>for no more than six months in a 12-month period</i> , for the purposes of employment in the territory of a Member State in a sector of activity dependent on the passing of the seasons, <i>within the scope of Article 2(1b)</i> , under one or more fixed-term work contracts concluded directly between the third-country national and the employer established in a Member State;	(b) ‘seasonal worker’ means a third-country national who retains [...] his/her principal place of residence in a third country [...] and stays legally and temporarily for the purposes of employment in the territory of a Member State [...] to carry out an activity dependent on the passing of the seasons, as determined by national law and/or practice , under one or more fixed-term work contracts concluded directly between the third-country national and the employer established in [...] that Member State.	<i>joint LIBE-EMPL competence</i> <i>Agreement on text below subject to agreement on Article 11(2) and 11(3):</i> (b) ‘seasonal worker’ means a third-country national who retains <i>his/her principal place of residence</i> in a third country <i>and stays legally and</i> temporarily for the purposes of employment in the territory of a Member State <i>to carry out an</i> activity dependent on the passing of the seasons, under one or more fixed-term work contracts concluded directly between the third-country national and the employer established in <i>that</i> Member State.

	<i>Amendment 44</i>		
(c) ‘activity dependent on the passing of the seasons’ means an activity that is tied to a certain time of the year by an event or pattern during which labour levels are required that are far above those necessary for usually ongoing operations;	(c) ‘activity dependent on the passing of the seasons’ means an activity, <i>within the scope of Article 2(1b)</i> , that is tied to a certain time of the year by an event or <i>recurring pattern of events linked to seasonal conditions</i> during which <i>the required</i> labour levels are <i>regularly and predictably</i> far above those necessary for usually ongoing operations;	(c) ‘activity dependent on the passing of the seasons’ means an activity that is tied to a certain time of the year [...] during which required labour levels are [...] above those necessary for usually ongoing operations or during which specific operations need to be carried out ;	<i>joint LIBE-EMPL competence</i> <i>Agreement on:</i> (c) ‘activity dependent on the passing of the seasons’ means an activity that is tied to a certain time of the year by a <i>recurring</i> event or pattern <i>of events linked to seasonal conditions</i> during which <i>required</i> labour levels are <i>significantly</i> above those necessary for usually ongoing operations .
	<i>Amendment 45</i>		
(d) ‘seasonal worker permit’ means the authorisation bearing the words ‘seasonal worker’ entitling its holder to reside and work in the territory of a Member State under the terms of this Directive;	(d) ‘seasonal worker permit’ means the authorisation bearing the words ‘seasonal worker’ entitling its holder to (...) work in the territory of a Member State under the terms of this Directive <i>for a period of up to six months in any 12 month period</i> ;	(d) ‘seasonal worker permit’ means [...] an authorisation issued using the format laid down in Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals bearing [...] a reference to seasonal work and entitling its holder to [...] stay and work in the territory of a Member State under the terms of this Directive;	<i>Agreement on:</i> (d) ‘seasonal worker permit’ means <i>an</i> authorisation <i>issued using the format laid down in Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals</i> bearing <i>a reference to</i> seasonal <i>work and</i> entitling its holder to <i>stay</i> and work in the territory of a Member State <i>for a stay exceeding three months</i> under the terms of this Directive;

			<p><i>Agreement on:</i></p> <p><i>(da) 'short-stay visa' means an authorisation issued by a Member State as provided for in Article 2(a) of the Visa Code or issued in accordance with the national law of Member States not implementing the Schengen acquis in full;</i></p>
		<p>(e) 'long-stay visa' means an authorisation issued by a Member State as provided for in Article 18 of the Schengen Convention or issued in accordance with the national law of Member States not implementing the Schengen acquis in full;</p>	<p><i>Agreement on Council text.</i></p>
	<i>Amendment 46</i>		
<p>(e) 'single application procedure' means a procedure leading, on the basis of one application for the authorisation of a third-country national's residence and work in the territory of a Member State, to a decision on the application;</p>	<i>deleted</i>	<p>(f) 'single application procedure' means a procedure leading, on the basis of one application for the authorisation of a third-country national's [...] stay and work in the territory of a Member State, to a decision on the application for the seasonal worker permit;</p>	<p><i>Agreement on Council text.</i></p>

	<i>Amendment 47</i>		
(f) ‘universally applicable collective agreement’ means a collective agreement which must be observed by all undertakings in the geographical area and in the profession or industry concerned. In the absence of a system for declaring collective agreements to be of universal application, Member States may, if they so decide, base themselves on collective agreements which are generally applicable to all similar undertakings in the geographical area and in the profession or industry concerned, and/or collective agreements which have been concluded by the most representative employers' and labour organisations at national level and which are applied throughout national territory.	<i>deleted</i>	<i>deleted</i>	<i>exclusive EMPL competence</i> <i>Agreement to delete.</i>
		(g) ‘regulated profession’ means a regulated profession as defined in Article 3(1)(a) of Directive 2005/36/EC.	<i>Agreement to delete this provision.</i>
		(h) "authorisation for the purpose of seasonal work" means either a short-stay visa and a work permit, if a work permit is required under national law, a long-stay visa and a work permit,	<i>Agreement on:</i> <i>(g) "authorisation for the purpose of seasonal work" means any of the authorisations referred to in Article 9 entitling the holder to</i>

		if a work permit is required under national law, or a seasonal worker permit. In the case of those third-country nationals listed in Annex II of Regulation 539/2001, Member States either apply Article 4(3) of Regulation 539/2001 or issue a work permit or both.	<i>stay and work on the territory of the Member State having issued the authorisation under the terms of this Directive;</i>
		(i) 'work permit' means any authorisation issued by a Member State in accordance with national law primarily for the purpose of work in the territory of a Member State.	<i>Agreement on:</i> <i>(h) 'work permit' means any authorisation issued by a Member State in accordance with national law for the purpose of work in the territory of that Member State.</i>
<i>Article 4</i> <i>More favourable provisions</i>		<i>Article 4</i> <i>More favourable provisions</i>	
1. This Directive shall apply without prejudice to more favourable provisions of:		1. This Directive shall apply without prejudice to more favourable provisions of:	
(a) Union law, including bilateral and multilateral agreements concluded between the Union or between the Union and its Member States on the one hand and one or more third countries on the other;		(a) Union law, including bilateral and multilateral agreements concluded between the Union or between the Union and its Member States on the one hand and one or more third countries on the other;	
(b) bilateral or multilateral agreements concluded between one or more Member States and one or more third countries.		(b) bilateral or multilateral agreements concluded between one or more Member States and one or more third countries.	

	<i>Amendment 48</i>		
	<i>(ba) the European Social Charter of 18 October 1961 and the European Convention on the Legal Status of Migrant Workers of 24 November 1977.</i>		<i>Agreement to drop this amendment and to include a reference in recital 20a.</i>
	<i>Amendment 49</i>		
2. This Directive shall not affect the right of Member States to adopt or retain more favourable provisions for persons to whom it applies in respect of Articles 13 to 17 of this Directive.	2. This Directive shall not affect the right of Member States to adopt or retain more favourable provisions for <i>third-country nationals</i> to whom it applies in respect of Articles 13 to 17 of this Directive.	2. This Directive shall not affect the right of Member States to adopt or retain more favourable provisions for persons to whom it applies in respect of Articles 13, [...] 14, 16 and 17 of this Directive.	<i>joint LIBE-EMPL competence</i> <i>Agreement on the following text subject to agreement on substance of Article 13a :</i> 2. This Directive shall not affect the right of Member States to adopt or retain more favourable provisions for <i>third country nationals</i> to whom it applies in respect of Articles 13, 13a, 14, 16 and 17 of this Directive.
	<i>Amendment 50</i>		
CHAPTER II Conditions of admission	CHAPTER II CONDITIONS <i>FOR A</i> SEASONAL WORKER PERMIT	CHAPTER II Conditions of admission	
	<i>Amendment 51</i>		
<i>Article 5</i> <i>Criteria for admission</i>	<i>Article 5</i> <i>Criteria for a seasonal worker permit</i>	<i>Article 5</i> <i>Criteria and requirements for admission to employment as a seasonal worker for stays not exceeding three months</i>	<i>Agreement on Council text for title.</i>

	<i>Amendment 52</i>		
1. Applications for admission to a Member State under the terms of this Directive shall be accompanied by the following documents:	1. Applications for <i>a seasonal worker permit</i> under the terms of this Directive shall be accompanied by the following documents:	1. [...] Without prejudice to Article 9, a third-country national who applies to be admitted under the terms of this Directive or the employer shall:	<i>Agreement on:</i> 1. Applications for admission to a Member State under the terms of this Directive <i>for a stay not exceeding three months</i> , shall be accompanied by <u>the following documents</u> :
	<i>Amendment 53</i>		
(a) a valid work contract or, as provided for in national law, a binding job offer to work as a seasonal worker in the Member State concerned with an employer established in the Member State that specifies the rate of pay and the working hours per week or month and, when applicable, other relevant working conditions;	(a) a valid work contract or, as provided for in national law, a binding job offer to work as a seasonal worker in the Member State concerned with an employer established in the Member State that specifies the <i>essential aspects of the contract or employment relationship as laid down in Article 2 of Council Directive 91/533/EC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship¹, in accordance with the provisions laid down in Article 16 of this Directive;</i>	(a) present a valid work contract or, [...] if provided for [...] by national law or administrative regulations or practice , a binding job offer to work as a seasonal worker in the Member State concerned with an employer established in the Member State [...] which specifies the [...] remuneration and the working hours per week or month and, [...] where applicable, other relevant working conditions.	<i>joint LIBE-EMPL competence</i> <i>Pending</i> <i>Related to Articles 5(1a), 5b(1a) and Recital 13</i> <i>Agreement on the following text with a scrutiny of the EP on the phrase " and, if possible, the date of commencement of employment":</i> (a) present a valid work contract or, if provided for by national law or administrative regulations or practice , a binding job offer to work as a seasonal worker in the Member State concerned with an employer established in the Member State which specifies the place and type of the work, duration of employment, the remuneration and the working

			hours per week or month, <i>the amount of any paid leave</i> , and, where applicable, other relevant working conditions, <i>and, if possible, the date of commencement of employment.</i>
(b) a valid travel document, as determined by national law. Member States may require the period of the validity of the travel document to cover at least the duration of the residence permit;		<i>deleted (Only in Article 5b)</i>	<i>Agreement to delete</i>
(c) evidence of having or, if provided for by national law, having applied for sickness insurance for all the risks normally covered for nationals of the Member State concerned for periods where no such insurance coverage and corresponding entitlement to benefits are provided in connection with, or as a result of, the work contract;		(b) provide evidence [...] that the third-country national has or is entitled to have by virtue of the application of national law, a sickness insurance for all the risks normally covered for nationals of the Member State concerned for periods where no such insurance coverage and corresponding entitlement to benefits are provided in connection with, or as a result of, the work [...] carried out in the Member State concerned.	<i>Agreement on:</i> (b) <u><i>provide</i></u> evidence of having or, if provided for by national law, having applied for sickness insurance for all the risks normally covered for nationals of the Member State concerned for periods where no such insurance coverage and corresponding entitlement to benefits are provided in connection with, or as a result of, the work <i>carried out in the Member State concerned.</i>

	<i>Amendment 54</i>		
(d) evidence of having accommodation as set out in Article 14.	(d) evidence <i>that the seasonal worker will have adequate accommodation or that adequate accommodation will be provided, in accordance with the provisions laid down</i> in Article 14.	(c) provide evidence [...] that the third-country national has accommodation as set out in Article 14.	<i>joint LIBE-EMPL competence</i> <i>Agreement on EP text</i>
	<i>Amendment 55</i>		
	(da) <i>a signed commitment by the seasonal worker that he/she will return to his/her country of origin or a third-country after the end of the work contract, unless they are otherwise entitled to stay in the Member State.</i>		<i>Agreement to drop the amendment.</i>
	<i>Amendment 56</i>		
	<i>1a. Third-country nationals residing outside the EU shall be in possession of a valid travel document, as determined by national law.</i>		<i>Agreement to drop the amendment.</i>
		1a. Member States shall require that the conditions listed in paragraph 1(a) are in conformity with applicable laws, collective agreements and/or practices.	<i>Related to Article 1((a), 5b(1)(a) and 16</i> <i>Agreement on Council text.</i>

	<i>Amendment 57</i>		
2. Member States shall require that the seasonal worker will have sufficient resources during his/her stay to maintain him/herself without having recourse to the social assistance system of the Member State concerned.	2. Member States shall require that the seasonal worker will have sufficient resources during his/her stay to maintain him/herself without having recourse to the social assistance system of the Member State concerned, <i>based on the documentation provided pursuant to paragraph 1.</i>	2. Member States shall require that the seasonal worker will have sufficient resources during his/her stay to maintain him/herself without having recourse to the social assistance system of the Member State concerned.	Agreement on: <i>2. Based on the documentation provided pursuant to paragraph 1,</i> Member States shall require that the seasonal worker will <i>not have</i> recourse to <i>their</i> social assistance systems.
		3. Member States shall require the seasonal worker and/or the employer to present documentation attesting that the third-country national fulfils the conditions laid down under national law for the exercise by Union citizens of the regulated profession specified in the work contract or binding job offer as provided for in national law.	Agreement on: <i>3. Member States may require the applicant to present documentation attesting that the third-country national fulfils the conditions laid down under national law for the exercise of the regulated profession, as defined in Directive 2005/36/EC, specified in the work contract or binding job offer.</i>
		4. When examining an application for authorisation for the purpose of seasonal work, Member States not applying the Schengen <i>acquis</i> in full, shall verify whether the third-country national does not present a risk of illegal immigration and that he/she intends to leave the territory of the Member States at the latest on the date of expiry of	Agreement on: <i>4. When examining an application for <u>an</u> authorisation referred to in Article 9(1), Member States not applying the Schengen <i>acquis</i> in full, shall verify whether the third-country national does not present a risk of illegal immigration and that he/she intends to leave the territory of the Member States at</i>

		the authorisation.	<i>the latest on the date of expiry of the authorisation.</i>
	<i>Amendment 58</i>		
3. Third-country nationals who are considered to pose a threat to public policy, public security or public health shall not be admitted for the purposes of this Directive.	<i>deleted</i>	<i>deleted</i>	<i>Agreement to delete.</i>
		Article 5b <i>Criteria and requirements for admission as a seasonal worker for stays exceeding three months</i>	<i>Agreement on Council text.</i>
		1. [...] Without prejudice to Article 9, a third-country national who applies to be admitted under the terms of this Directive or the employer shall:	<i>Agreement on:</i> 1. Applications for admission to a Member State under the terms of this Directive for a stay exceeding three months shall be accompanied by <u>the following documents</u> :
		(a) present a valid work contract or, [...] if provided for by national law or administrative regulations or practice , a binding job offer to work as a seasonal worker in the Member State concerned with an employer established in the Member State [...] which specifies the [...] remuneration and the working hours per week or month and, [...] where applicable, other relevant working conditions.	<i>Pending</i> <i>Agreement on the following text with a scrutiny of the EP on the phrase " and, if possible, the date of commencement of employment":</i> (a) <u>present</u> a valid work contract or, if provided for by national law or administrative regulations or practice , a binding job offer to work as a seasonal worker in the Member State concerned with an employer established in the

			Member State <i>which</i> specifies <i>the place and type of the work, duration of employment, the remuneration</i> and the working hours per week or month, <i>the amount of any paid leave</i> , and, <i>where</i> applicable, other relevant working conditions <i>and, if possible, the date of commencement of employment</i> .
		(b) provide evidence [...] that the third-country national has or is entitled to have by virtue of the application of national law, a sickness insurance for all the risks normally covered for nationals of the Member State concerned for periods where no such insurance coverage and corresponding entitlement to benefits are provided in connection with, or as a result of, the work [...] carried out in the Member State concerned.	Agreement on: (b) provide evidence of having or, if provided for by national law, having applied for sickness insurance for all the risks normally covered for nationals of the Member State concerned for periods where no such insurance coverage and corresponding entitlement to benefits are provided in connection with, or as a result of, the work <i>carried out in the Member State concerned</i> .
		(c) provide evidence that the third-country national has accommodation as set out in Article 14.	Agreement on the following text (AM 54) (c) provide evidence <i>that the seasonal worker will have adequate accommodation or that adequate accommodation will be provided, in accordance with the provisions laid down</i> in Article 14.

		1a. Member States shall require that the conditions listed in paragraph 1(a) are in conformity with applicable laws, collective agreements and/or practices.	<i>Agreement on the Council text.</i>
		2. Member States shall require that the seasonal worker will have sufficient resources during his/her stay to maintain him/herself without having recourse to the social assistance system of the Member State concerned.	<i>Agreement on:</i> 2. Based on the documentation provided pursuant to paragraph 1, Member States shall require that the seasonal worker will have sufficient resources during his/her stay to maintain him/herself without having recourse to their social assistance systems.
		3. Third-country nationals who are considered to pose a threat to public policy, public security or public health shall not be admitted for the purposes of this Directive.	<i>Agreement on Council text.</i>
		4. When examining an application for authorisation for the purpose of seasonal work Member States shall verify whether the third-country national does not present a risk of illegal immigration and that he/she intends to leave the territory of the Member States at the latest on the date of expiry of the authorisation.	<i>Agreement on:</i> 4. When examining an application for <u>an</u> authorisation referred to in Article 9(2), Member States shall verify whether the third-country national does not present a risk of illegal immigration and that he/she intends to leave the territory of the Member States at the latest on the date of expiry of the authorisation.

		<p>5. Member States shall require the seasonal worker and/or the employer to present documentation attesting that the third-country national fulfils the conditions laid down under national law for the exercise by Union citizens of the regulated profession specified in the work contract or binding job offer as provided for in national law.</p>	<p><i>Agreement on:</i></p> <p>5. Member States may require the applicant to present documentation attesting that the third-country national fulfils the conditions laid down under national law for the exercise of the regulated profession, as defined in Directive 2005/36/EC, specified in the work contract or binding job offer.</p>
		<p>6. Third-country nationals shall be in possession of a valid travel document determined by national law. Member States shall require the period of validity of the travel document to cover at least [...] the validity of the seasonal worker permit or the long-stay visa. Member States may also require the period of validity to exceed the intended duration of stay by a maximum of 6 months.</p>	<p><i>Agreement on:</i></p> <p>6. Third-country nationals shall be in possession of a valid travel document determined by national law. Member States shall require the period of validity of the travel document to cover at least the validity of the authorisation for the purpose of seasonal work. Member States may also require the period of validity to exceed the intended duration of stay by a maximum of 3 months and the travel document to be issued in the last ten years and to contain at least two blank pages.</p>

		<i>Article 5a</i> <i>Volumes of admission</i>	
		This Directive shall not affect the right of a Member State to determine the volumes of admission of third-country nationals entering its territory for the purpose of seasonal work. On this basis and for the purposes of this Directive, an application for authorisation for the purpose of seasonal work may be considered inadmissible.	<i>cf Commission text Article 6(4)</i> <i>Agreement on the following text and deletion of Article 6(2a) (pending agreement on Article 7(5)):</i> <i>This Directive shall not affect the right of a Member State to determine the volumes of admission of third country nationals entering its territory for the purpose of seasonal work. On this basis and for the purposes of this Directive, an application for an authorisation for the purpose of seasonal work may be either considered inadmissible or be rejected.</i>
<i>Article 6</i> <i>Grounds for refusal</i>		<i>Article 6</i> <i>Grounds for refusal</i>	
	<i>Amendment 59</i>		
1. Member States shall reject an application for admission to a Member State for the purposes of this Directive whenever the conditions set out in Article 5 are not met or whenever the documents presented have been fraudulently acquired, or falsified, or tampered with.	1. Member States shall reject an application for <i>a seasonal worker permit</i> whenever the conditions set out in Article 5 are not met or whenever the documents presented have been fraudulently acquired, or falsified, or tampered with.	1. Member States shall reject an application for [...] authorisation for the [...] purpose of seasonal work whenever the conditions set out in Article 5 or 5b are not met or whenever the documents presented have been fraudulently acquired, or falsified, or tampered with.	<i>Rapporteur and Presidency suggestion:</i> 1. Member States shall reject an application for authorisation for the purpose of seasonal work where: (a) the conditions set out in Article 5 or 5b are not met; or

			(b) the documents presented have been fraudulently acquired, or falsified, or tampered with
			<p><i>Rapporteur and Presidency suggestion</i></p> <p>1a. Member States shall reject, if appropriate, an application for authorisation for the purpose of seasonal work where:</p> <p>(a) the employer has been sanctioned in conformity with national law for undeclared work and/or illegal employment or where the employer's business is being or has been wound up under national insolvency laws or if no economic activity is taking place; or</p> <p>(b) the employer has been sanctioned under Article 12a.</p>
	Amendment 60		
2. Member States may verify whether the vacancy concerned could not be filled by national or EU, or by third-country nationals lawfully residing in the Member State and already forming part of its labour market by virtue of EU or national law and reject the application.	2. Member States may examine the situation of their labour market and verify, in a timely and transparent manner , whether the vacancy concerned could not be filled by nationals of the Member State concerned, by other Union citizens , or by third-country nationals lawfully residing in the	2. Member States may verify whether the vacancy [...] in question could [...] be filled by [...] nationals of the Member State concerned or by other EU citizens , or by third-country nationals lawfully residing in the Member State [...], in which case they may reject the application.	<p><i>joint LIBE-EMPL competence</i></p> <p><i>Related to recital (7)</i></p> <p><i>Agreement on:</i></p> <p>2. Member States may verify whether the vacancy in question could be filled by nationals of the</p>

	Member State and already forming part of its labour market by virtue of EU or national law and reject the application.	This paragraph shall apply without prejudice to the principle of Union preference as expressed in the relevant provisions of the Act of Accession of 2005.	<i>Member State concerned or by other</i> Union citizens, or by third-country nationals lawfully residing in the Member State, <i>in which case they may</i> reject the application. <i>This paragraph shall apply without prejudice to the principle of Union preference as expressed in the relevant provisions of the relevant Acts of Accession.</i>
		2a. Member States may reject an application for authorisation for the purpose of seasonal work on the ground [...] set out in Article 5a.	<i>cf Commission text in Article 6(4)</i> <i>Agreement to delete this paragraph (see Article 5a above), pending agreement on Article 7(5).</i>
	<i>Amendment 61</i>		
3. Member States may reject an application if the employer has been sanctioned in conformity with national law for undeclared work and/or illegal employment.	3. Member States <i>shall</i> reject an application if the employer has:	3. Member States may reject an application for authorisation for the purpose of seasonal work if the employer [...]:	<i>Agreement on :</i> 3. Member States may reject an application for authorisation for the purpose of seasonal work where:
	(a) been sanctioned in conformity with national law for undeclared work and/or illegal employment,	(a) has been sanctioned in conformity with national law for undeclared work and/or illegal employment or has filed for bankruptcy or is otherwise insolvent or if no economic activity is taking place; or	<i>Agreement to insert point (a) in the "shall clause".</i>

	<i>(b) been sanctioned under Article 12a, or</i>		<i>Agreement insert point (b) in the "shall clause"</i>
	<i>(c) failed to meet its legal obligations regarding taxation, social security, working conditions, labour rights or social rights as provided for in national law.</i>	(b) does not meet the legal obligations regarding social security, taxation and/or if the terms of employment, including remuneration, according to applicable laws, collective agreements and/or practices are not met; or	<i>Agreement on</i> <i>(a) the employer has failed to meet its legal obligations regarding social security, taxation, labour rights, working conditions or terms of employment, as provided for in applicable laws and/or collective agreements; or</i>
		(c) has eliminated the positions he is trying to fill, within the 12 months immediately preceding the date of the application, in order to employ third-country nationals through the new application.	<i>Agreement on:</i> <i>(b) within the 12 months immediately preceding the date of the application, the employer has eliminated a full-time position in order to create the vacancy he/she is trying to fill by use of this Directive;</i>
	<i>Amendment 62</i>		
4. Member States may reject an application on the grounds of volumes of admission of third-country nationals.	4. Member States may reject an application on the grounds of volumes of admission of third-country nationals. <i>It should be avoided that the number of third country nationals who applies for seasonal work, should be greater than that of the nationals of the Member State who are looking to find a job as a seasonal worker.</i>		<i>EP agrees to drop AM 62.</i> <i>paragraph deleted as it is moved to Article 5a.</i>

	<i>Amendment 63</i>		
	<i>4a. Third-country nationals who are considered to pose a threat to public policy, public security or public health shall not be granted a seasonal worker permit. The notion of public policy may cover a conviction for committing a serious crime as referred to in Article 2(2) of the Council Framework Decision 2002/584/JHA.</i>		<i>EP agrees to drop AM 63</i>
		4. Member States may reject an application [...] for authorisation for the purpose of seasonal work if the third-country national has not complied with the obligations arising from a previous decision on admission as a seasonal worker.	<i>Agreement in trilogue on the following text and to move it to paragraph 3.</i> <i>(c) the third-country national has not complied with the obligations arising from a previous decision on admission as a seasonal worker.</i>
			<i>Rapporteur and Presidency suggestion to modify the agreed text as follows:</i> 4. Without prejudice to paragraph 1, any decision to reject an application shall take account of the specific circumstances of the case, including the interests of the seasonal worker, and respect the principle of proportionality.

			<p>Agreement on the following text:</p> <p>5. Grounds for refusing the issuance of a short-stay visa are regulated in the relevant provisions of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas.</p>
	Amendment 64		
<i>Article 7</i> <i>Withdrawal or non-renewal of the permit</i>	<i>Article 7</i> Withdrawal or non-renewal of the seasonal worker permit	<i>Article 7</i> <i>Withdrawal or non-extension/non-renewal of the authorisation for the purpose of seasonal work</i>	<p>Rapporteur and Presidency suggestion to modify the agreed text as follows:</p> <p style="text-align: center;"><u>Article 7</u></p> <p>Withdrawal of the authorisation for the purpose of seasonal work</p>
	Amendment 65		
1. Member States shall withdraw or refuse to renew the permit issued on the basis of this Directive in the following cases:	1. Member States shall withdraw or refuse to renew the seasonal worker permit issued on the basis of this Directive in the following cases:		<p>cf paragraph 2 in Council text</p> <p>Presidency suggestion to modify the agreed text as follows:</p> <p>1. Member States shall withdraw the authorisation for the purpose of seasonal work issued on the basis of this Directive where:</p> <p>(a) the evidence presented for the purpose of Article 5 or 5b had been</p>

			<p>fraudulently acquired, or falsified, or tampered with or (b) where the holder is residing for purposes other than those for which he/she was authorised to reside.</p> <p><i>1a. Member States shall withdraw, if appropriate, the authorisation for the purpose of seasonal work issued on the basis of this Directive where:</i></p> <p><i>(a) the employer has been sanctioned in conformity with national law for undeclared work and/or illegal employment or where the employer's business is being or has been wound up under national insolvency laws or if no economic activity is taking place; or</i> <i>(b) if the employer has been sanctioned under Article 12a.</i></p>
(a) when it has been fraudulently acquired, or has been falsified, or tampered with; or			
(b) where the holder is residing for purposes other than those for which he/she was authorised to reside.			

	<i>Amendment 66</i>		
2. Member States may withdraw or refuse to renew the permit issued on the basis of this Directive in the following cases:	2. Member States may withdraw or refuse to renew the <i>seasonal worker</i> permit issued on the basis of this Directive in <i>any of</i> the following cases:	1. Member States may withdraw or refuse to extend or renew [...] the authorisation for the purpose of seasonal work granted on the basis of this Directive [...] whenever the provisions of Articles 5 or 5b were not or are no longer [...] complied with.	<i>Rapporteur and Presidency suggestion to modify the agreed text as follows:</i> 2. Member States may withdraw the authorisation for the purpose of seasonal work issued on the basis of this Directive where: (a) the provisions of Articles 5 or 5b were not or are no longer complied with; or
(a) wherever the conditions laid down in Article 5 were not met or are no longer met;	(a) the conditions laid down in Article 5 were not met or are no longer met;		<i>Covered in Article 7(2)(a).</i>
		2. Member States shall withdraw or refuse to extend or renew [...] the authorisation for the purpose of seasonal work granted on the basis of this Directive [...] if the documents presented for the purpose of Article 5, 5b or 6 had been fraudulently acquired, or [...] falsified, or tampered with or where the holder is residing for purposes other than those for which he/she was authorised to reside.	<i>Covered in Article 7(1)(a) and (b).</i>
(b) for reasons of public policy, public security or public health.	(b) for reasons of public policy, public security or public health.	deleted	<i>Agreement to delete.</i>

		3. Member States may withdraw or refuse to extend or renew the authorisation for the purpose of seasonal work granted on the basis of this Directive if the employer:	<i>Agreement to include paragraph 3 Council text in the new paragraph 2.</i>
	<i>(ba) if the employer has been sanctioned in conformity with national law for undeclared work and/or illegal employment;</i>	(a) has been sanctioned in conformity with national law for undeclared work and/or illegal employment or has filed for bankruptcy or is otherwise insolvent or if no economic activity is taking place, or	<i>Agreement to insert point (a) in the shall clause.</i>
	<i>(bb) if the employer has been sanctioned under Article 12a;</i>		<i>Agreement to insert point (bb) in the shall clause.</i>
	<i>(bc) if the employer has failed to meet its legal obligations regarding taxation, social security, working conditions, labour rights or social rights as provided for in national law,</i>	(b) does not meet the legal obligations regarding social security, taxation and/or if the terms of employment, including remuneration, according to applicable laws, collective agreements and/or practices are not met, or	<i>Agreement on:</i> <i>(b) the employer has failed to meet its legal obligations regarding social security, taxation, labour rights, working conditions or terms of employment, as provided for in applicable laws and/or collective agreements; or</i>
		(c) has not fulfilled the obligations based on the work contract, or	<i>cf Commission text in Article 12(2)(b) (on facilitation of re-entry)</i> <i>Agreement on:</i> <i>(c) the employer has not fulfilled the obligations based on the work contract, or</i>

		(d) has eliminated the positions he is trying to fill, within the 12 months immediately preceding the date of the application, in order to employ third-country nationals through the new application.	<i>Agreement in trilogue on the following text:</i> <i>(d) within the 12 months immediately preceding the date of the application, the employer has eliminated a full-time position in order to create the vacancy he/she is trying to fill by use of this Directive.</i>
	<i>Any exclusion shall be proportionate to the circumstances of the case.</i>		<i>Agreement on deletion of this paragraph (see paragraph 5 below).</i>
	<i>2a. Member States shall only withdraw or refuse to renew the seasonal worker permit on the basis of paragraph 2 points (ba), (bb) or (bc) if it serves the direct purpose of protecting the interests of the seasonal worker.</i>		<i>Agreement on deletion of this paragraph (see paragraph 5 below).</i>
		3a. Article 7(3) does not apply to a seasonal worker who has a valid contract or a binding job offer for seasonal work in the Member State concerned and can, therefore, be employed by a different employer in accordance with Articles 5, 5b and 6, on the basis of a procedure defined by national law and/or practice.	<i>Pending</i> <i>cf Article 7(2a) in EP text and EP amendment 79.</i> <i>Rapporteur and Presidency suggest to move paragraph 3a to the new Article 11a as a new paragraph 9.</i>

		4. Member States may withdraw or refuse to extend or renew the authorisation for the purpose of seasonal work granted on the basis of this Directive if the third-country national has not complied with the obligations arising from the authorisation for the purpose of seasonal work during a previous stay as a seasonal worker.	<i>Agreement to delete</i>
		5. Member States may refuse to extend or renew the authorisation for the purpose of seasonal work when the vacancy in question could be filled by nationals of the Member State concerned or by other EU citizens, or by third-country nationals lawfully residing in the Member State, or when the relevant quota set has been filled.	<i>Pending</i> <i>Related to recital (16a).</i> <i>Rapporteur and Presidency suggest to move paragraph 5 to the new Article 11a. as a new paragraph 6.</i>
		6. Member States shall refuse to extend or renew the authorisation for the purpose of seasonal work where the maximum duration of stay as defined in Article 11(1) has been reached.	<i>Rapporteur and Presidency suggest to move paragraph 6 to the new Article 11a as a new paragraph 7.</i>

		<p>7. Member States may withdraw or refuse to extend or renew the authorisation for the purpose of seasonal work granted on the basis of this Directive if the third-country national applies for international protection under Council Directive 2011/95/EU of 13 December 2011 or if the third-country national applies for protection in accordance with national law, international obligations or practice of the Member State concerned.</p>	<p><i>Rapporteur and Presidency suggestion to modify the agreed text as follows:</i></p> <p>3. Member States may withdraw the authorisation for the purpose of seasonal work granted on the basis of this Directive if the third-country national applies for international protection under Council Directive 2011/95/EU of 13 December 2011 or if the third-country national applies for protection in accordance with national law, international obligations or practice of the Member State concerned.</p>
		<p>8. Without prejudice to Article 11(2a), Member States may withdraw an authorisation for the purpose of seasonal work following the termination of a work contract.</p>	<p><i>Agreement to delete.</i></p>
			<p><i>Rapporteur and Presidency suggest to modify the agreed text as follows::</i></p> <p>4. Grounds for annulment or revocation of a short-stay visa are regulated in the relevant provisions of Regulation (EC) No 810/2009 of the European Parliament and of the Council of</p>

			13 July 2009 establishing a Community Code on Visas.
			<p><i>Presidency suggests to modify the agreed text as follows:</i></p> <p>5. Without prejudice to paragraph 1, any decision to withdraw the authorisation shall take account of the specific circumstances of the case, including the interests of the seasonal worker, and respect the principle of proportionality.</p>
		Article 7a Obligation of cooperation	
		Member States shall require the employer to provide all relevant information needed for granting, withdrawing, extending or renewing the authorisation for the purpose of seasonal work.	<p><i>Agreement on:</i></p> <p>Member States may require the employer to provide all relevant information needed for issuing, extending or renewing the authorisation for the purpose of seasonal work.</p>
		Article 7b Sanctions	<i>Given agreement on Article 12a, agreement that Council text on Article 7b will not be taken up.</i>
		1. Member States shall provide for sanctions against employers who have not fulfilled the obligations based on this Directive. Those sanctions shall be effective, proportionate and dissuasive.	

		2. Sanctions in accordance with paragraph 1 may include the exclusion of employers who have not fulfilled the obligations based on this directive from applications for seasonal workers for up to 3 years.	
		3. An application for authorisation for the purpose of seasonal work may be considered inadmissible if the employer has been excluded from applications for seasonal workers on the grounds set out in paragraph 2.	
	<i>Amendment 67</i>		
CHAPTER III Procedure and permit	CHAPTER III PROCEDURE	CHAPTER III Procedure and [...] authorisations for the purpose of seasonal work	
Article 8 Access to information		Article 8 <i>Access to information</i>	
	<i>Amendment 68</i>		
Member States shall take the necessary measures to make available information on conditions of entry and residence, including rights and all documentary evidence needed for an application to reside and work in the territory of a Member State as a seasonal worker.	1. Member States shall take the necessary measures to make available <i>to prospective seasonal workers and employers</i> information on conditions of entry and residence, including rights <i>and procedural safeguards as laid down in this Directive</i> and all documentary evidence needed for an application to reside and work in the territory of a Member State as a seasonal worker. <i>This information</i>	Member States shall take the necessary measures to make available information on conditions of entry and [...] stay, including rights and all documentary evidence needed for an application [...] for authorisation for the purpose of seasonal work.	<i>Agreement on :</i> 1. Member States shall make <i>easily accessible to applicants the</i> information on all documentary evidence needed for an application and information on entry and residence, including <i>the rights and obligations and the procedural safeguards of the seasonal worker.</i>

	<i>shall be made available to the public and set out in a straightforward and comprehensible manner.</i>		
	<i>2. When third-country nationals are granted a seasonal worker permit they shall be provided with information in writing about their rights and obligations under this Directive, including complaints procedures. This information shall be provided in a straightforward and comprehensible manner, in a language that the third-country national understands, or may reasonably be presumed to understand.</i>		Agreement on: <i>2. When third-country nationals are issued an authorisation for the purpose of seasonal work, they shall be provided with information in writing about their rights and obligations under this Directive, including complaint procedures.</i>
	<i>3. Member States shall designate national and/or local contact points responsible for making information available to prospective seasonal workers and providing advice to seasonal workers where requested prior to, or during, their period of stay in that Member State.</i>		Agreement not to take up paragraph 3 of AM 68.

	<i>Amendment 69</i>		
<i>Article 9 Applications for admission</i>	<i>Article 9 Applications</i>	<i>Article 9 Applications for [...] authorisations for the purpose of seasonal work</i>	<i>Agreement on: Article 10 Applications for a seasonal worker permit</i>
	<i>Amendment 70</i>		
1. Member States shall determine whether an application is to be made by the third-country national or by the employer.	1. Member States shall determine whether an application is to be made by the third-country national or by <i>the third-country national in conjunction with</i> the employer. <i>Member States shall allow the application to be introduced from a third country or on the territory of a Member State.</i>	1. Member States shall determine whether an application for a seasonal worker permit is to be made by the third-country national and/or by the employer.	<i>Agreement to move this paragraph to Article 9(2a) (all authorisations)</i>
	<i>Amendment 71</i>		
	<i>1a. Member States shall provide that recruitment agencies or other intermediaries shall not charge prospective seasonal workers any fees in exchange for organising seasonal work.</i>		<i>Related to Articles 2(2)(b) and 14a Council text. Agreement to drop this amendment.</i>
	<i>Amendment 72</i>		
2. Member States shall designate the authority competent to receive the application and to issue the seasonal worker permit.	2. Member States shall designate the authority competent to receive the application and to issue the seasonal worker permit <i>and the residence permit or the long-stay visa, if applicable.</i>	2. Member States shall designate the [...] authorities competent to receive and decide on the application for and to issue [...] an authorisation for the purpose of seasonal work.	<i>Agreement on:</i> 1. Member States shall designate the authorities competent to receive and decide on the application for and to issue a seasonal worker permit.

	<i>Amendment 73</i>		
	<i>2a. Member States may determine that the placement of seasonal workers from third countries must be carried out by a government agency.</i>		<p><i>cf Council text in Article 14a</i></p> <p><i>Agreement to place following text in new Article 14a:</i></p> <p><i>Member States may determine that the placement of seasonal workers shall only be carried out by public employment services.</i></p>
	<i>Amendment 74</i>		
3. The application to reside and work in the territory of a Member State as a seasonal worker shall be submitted in a single application procedure.	<i>deleted</i>	3. The application [...] for a seasonal worker permit shall be submitted in a single application procedure.	<p><i>Agreement on Council text.</i></p> <p><i>2. The application for a seasonal worker permit shall be submitted in a single application procedure</i></p>
	<i>Amendment 75</i>		
4. The Member State concerned shall grant the third-country national whose application for admission has been accepted every facility to obtain the requisite visa.	<i>deleted</i>	4. If required for initial entry , the Member State concerned shall [...] facilitate the obtaining of a long-stay visa by the third-country national whose application for a seasonal worker permit has been accepted.	<i>Agreement to delete.</i>
<i>Article 10</i> <i>Seasonal worker permit</i>		<i>Article 10</i> <i>[...] Authorisations for the purpose of seasonal work</i>	<p><i>Agreement on whole article.</i></p> <p style="text-align: center;"><i>Article 9</i> <i>Authorisations for the purpose of seasonal work</i></p>

	<i>Amendment 76</i>		
1. For stays exceeding three months, seasonal workers who fulfil the admission criteria as set out in Article 5 and for whom the competent authorities have taken a positive decision shall be issued with a seasonal worker permit.	1. [...] Seasonal workers who fulfil the admission criteria as set out in Article 5 and for whom the competent authorities have taken a positive decision shall be issued with a seasonal worker permit.	1. For stays exceeding three months, [...] Member States shall grant applicants who comply with the provisions of Article 5b and do not fall under the grounds set out in Article 6 a long-stay visa or a seasonal worker permit.	1. For stays not exceeding three months, <i>Member States shall issue third-country nationals who comply with the provisions of Article 5 and do not fall under the grounds set out in Article 6 one of the following authorisations for the purpose of seasonal work, without prejudice to the rules on the issuance of short-stay visas as laid down in Regulation (EC) N° 810/2009 and in Regulation (EC) No 1683/95 of 29 May 1995:</i>
			<p><i>(a) a short-stay visa, indicating that it is issued for the purpose of seasonal work,</i></p> <p><i>or</i></p> <p><i>(b) a short-stay visa and a work permit issued in accordance with national law indicating that it is issued for the purpose of seasonal work,</i></p> <p><i>or</i></p> <p><i>(c) a work permit indicating that it is issued for the purpose of seasonal work, where the third-country national is exempted from</i></p>

			<p><i>the visa obligation in accordance with Annex II of Regulation (EC) N° 539/2001 and the Member State does not apply Article 4 (3) of the same Regulation to him or her.</i></p> <p><i>When transposing this Directive, Member States shall provide for either the authorisations referred to in point (a) and (c) or the authorisations referred to in points (b) and (c).</i></p>
		<p>2. Member States may grant applicants who comply with the provisions of Articles 5 or 5b and do not fall under the grounds set out in Article 6, a work permit authorising a third-country national to work as a seasonal worker in connection with the issuance of a short-stay visa or a long-stay visa for the purpose of seasonal work.</p>	<p><i>2. For stays exceeding three months, Member States shall issue third-country nationals who comply with the provisions of Article 5b and do not fall under the grounds set out in Article 6 one of the following authorisations for the purpose of seasonal work:</i></p>
			<p><i>(a) a long-stay visa, indicating that it is issued for the purpose of seasonal work;</i></p> <p><i>or</i></p> <p><i>(b) a seasonal worker permit;</i></p> <p><i>or</i></p>

			<p><i>(c) a seasonal worker permit and a long-stay visa, if the long-stay visa is required under national law for entering the territory.</i></p> <p><i>When transposing this Directive, Member States shall provide for only one of the authorisations referred to in points (a), (b) and (c).</i></p>
		<p>2a. Member States shall grant a work permit, in the case of stays not exceeding three months, to those applicants who comply with the provisions of Article 5 and do not fall under the grounds set out in Article 6, where the third-country national is exempted from the visa obligation in accordance with Annex II of Regulation 539/2001 and to whom Member States do not apply Article 4 (3) of Regulation 539/2001.</p>	<p><i>Deleted</i></p>
			<p><i>Agreement on:</i></p> <p>2a. Without prejudice to the Schengen acquis, Member States shall determine whether an application is to be submitted by the third country national <i>and</i>/or by the employer.</p>

			<i>The obligation on the Member States to determine whether the application is to be made by a third country national or by the employer shall be without prejudice to any arrangements requiring both to be involved in the procedure.</i>
	<i>Amendment 77</i>		
2. The seasonal worker permit shall be issued by the competent authorities of the Member States using the format as laid down in Council Regulation (EC) No 1030/2002 ¹⁸ . In accordance with point (a) 6.4 of the Annex to that Regulation, Member States shall enter ‘seasonal worker’ under the heading ‘type of permit’.	<i>deleted</i>	3. The seasonal worker permit shall be issued by the competent authorities of the Member States using the format as laid down in Council Regulation (EC) No 1030/2002. [...] Member States shall enter [...] a reference on the permit stating that it is issued for the purpose of seasonal work.	Agreement on: 3. The seasonal worker permit referred to in paragraph 2, points (b) and (c) shall be issued by the competent authorities of the Member States using the format as laid down in Council Regulation (EC) No 1030/2002. Member States shall enter a reference on the permit stating that it is issued for the purpose of seasonal work.
		4. In accordance with Article 18 of the Schengen Convention and with point 12 of the Annex to Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas, Member States shall enter a reference stating that it is issued for the purpose of seasonal work	(Recital 15b makes reference to remarks to be entered on a short-stay visa.) Agreement on: 4. In case of long-stays visas, in accordance with Article 18 of the Schengen Convention and with point 12 of the Annex to Council

¹⁸ OJ L 157, 15.6.2002, p. 1.

		under the heading ‘remarks’ on the visa sticker issued for long stays.	<i>Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas, Member States shall enter a reference stating that it is issued for the purpose of seasonal work under the heading ‘remarks’ on the visa sticker.</i>
		5. Member States may indicate additional information related to the employment relationship of the seasonal worker (such as the name and address of the employer, place of work, type of work, working hours, remuneration) in paper format, or store such data in electronic format as referred to in Article 4 of Regulation (EC) 1030/2002 and in point (a)16 of the Annex thereto.	<i>Agreement on:</i> <i>5. Member States may indicate additional information related to the employment relationship of the seasonal worker in paper format, or store such data in electronic format as referred to in Article 4 of Regulation (EC) 1030/2002 and in point (a)16 of the Annex thereto.</i>
3. Member States shall not issue any additional documents to the holder of the seasonal worker permit as proof of the access given to the labour market.		<i>deleted</i>	<i>Agreement to delete.</i>
			<i>Agreement on (linked to the accompanying recital (15c)):</i> <i>6. When a visa is required for the sole purpose of entering the territory of a Member State and the third-country national fulfils the conditions for being issued a</i>

			<i>seasonal worker permit under paragraph 2 (c), the Member State concerned shall grant the third-country national every facility to obtain the requisite visa.</i>
			Agreement on (related to Recital (15ba): <i>7. The issuance of a long-stay visa in accordance with Article 9(2)(a) shall be without prejudice to the possibility for Member States to issue a prior authorisation to work in the Member State concerned.</i>
<i>Article 11 Duration of stay</i>		<i>Article 11 Duration of stay</i>	
	<i>Amendment 78</i>		
1. Seasonal workers shall be allowed to reside for a maximum of six months in any calendar year, after which they shall return to a third country.	1. Seasonal workers shall be allowed to reside for a maximum of six months in any <i>period of 12 months</i> , after which they shall <i>proceed or</i> return to a third country <i>unless they are otherwise entitled to stay in the territory of a Member State.</i>	1. Seasonal workers shall be allowed to [...] stay for a maximum of [...] five to nine months in any period of twelve months , after which they shall return to a third country unless the Member State concerned has granted a residence permit under national law or Union law for purposes other than seasonal work.	<i>In the context of a overall agreement, Parliament could accept the following suggestion of Council:</i> <i>1. Member States shall determine a maximum period of stay for seasonal workers between five to nine months in any period of twelve months. After that period, the third country national shall leave the territory of the Member State unless the Member State concerned has issued a residence permit under national law or Union law for purposes other than</i>

			<i>seasonal work.</i>
		1a. Member States may determine a maximum aggregate period of time during which an employer is allowed to hire seasonal workers in any period of twelve months. This period should not be shorter than the maximum period determined by a Member State in accordance with paragraph 1.	<i>Presidency suggestion to clarify the provision:</i> <i>2 Member States may fix a maximum-period of time within any 12 months period, during which an employer is allowed to hire seasonal workers. This period of time shall be at least the maximum period of stay referred to in paragraph 1</i>
	<i>Amendment 79</i>		
2. Within the period referred to under paragraph 1, and provided that the criteria of Article 5 are met, seasonal workers shall be allowed to extend their contract or to be employed as seasonal worker with a different employer.	2. Within the <i>six-month</i> period referred to under paragraph 1, and provided that the criteria of Article 5 are met, seasonal workers shall be allowed to extend their contract or to be employed as <i>a</i> seasonal worker with a different employer. <i>They shall be permitted to remain on the territory of the Member State concerned while looking for a position with a different employer during the period of validity of their Schengen visa, long-stay visa or residence permit if a complaint was lodged by the seasonal worker against the first</i>	2. Within the maximum period [...] determined by Member States in accordance with paragraph 1, and provided that the [...] provisions of [...] Articles 5 and 5b are [...] complied with and the grounds set out in Article 6 are not met , seasonal workers [...] may be allowed to extend their contract [...] and apply for an extension of their stay, on the basis of a procedure defined by national law and/or practice.	<i>Rapporteur and Presidency suggest to move paragraph 2 to the new Article 11a as a new paragraph 1.</i>

	<i>employer.</i>		
			<i>Rapporteur and Presidency suggest to move paragraph 2(-a) to the new Article 11a as a new paragraph 2.</i>
		2a. Within the maximum period [...] determined by Member States in accordance with paragraph 1, and provided that the [...] provisions of Articles 5 and 5b are complied with and the grounds set out in Article 6 are not met, seasonal workers [...] may be allowed to [...] be employed with a different employer on the basis of a procedure defined by national law and/or practice and, if necessary, apply for an extension of their stay.	<i>Rapporteur and Presidency suggest to move paragraph 2a and 2aa to the new Article 11a as new paragraph 3 and 4.</i>
		3. For the purposes of paragraphs 2 and 2a, Member States shall accept the submission of an application by a seasonal worker admitted under the terms of this Directive staying on the territory of the Member State concerned.	<i>Rapporteur and Presidency suggest to move paragraph 3 to the new Article 11a as a new paragraph 5.</i>

		<p>4. For the purposes of paragraphs 2 and 2a, and if the seasonal worker has been admitted for stays not exceeding 3 months and the extension would result in the overall duration of the stay exceeding 3 months, the competent authorities may extend the initial staying period in which case they shall issue a long-stay visa or a seasonal worker permit covering the duration of the extended stay, on the basis of a procedure defined by national law and/or practice.</p>	<p><i>Agreement to delete Article 11(4) and modify recital (16c).</i></p>
			<p><i>Pending</i></p> <p><i>Rapporteur and Presidency suggestion for a new Article 11a.</i></p> <p style="text-align: center;"><i>Article 11a (new)</i></p> <p style="text-align: center;"><i><u>Extension or renewal of stay or renewal of the authorisation for the purposes of seasonal work</u></i></p> <p><i>Ex Article 11(2). The reference to Article 6(2) is excluded as it relates to the labour market test which is in Article 11a(6). Furthermore, the reference to quota is deleted as part of an overall compromise and a reference to paragraph 1a is added</i></p>

			<p><i>following the new Presidency suggestion in Article 6.</i></p> <p>1. Within the maximum period referred to in Article paragraph 11(1) and provided that the provisions of Articles 5 or 5b are complied with and the grounds set out in Articles 6(1), (1a) and, if applicable, (3) are not met, Member States shall allow seasonal workers one extension of their stay, where seasonal workers extend their contract with the same employer.</p> <p><i>Ex Article 11(2)(-a):</i></p> <p>2. Member States may decide, in accordance with their national law, to allow seasonal workers to extend their contract with the same employer and their stay more than once, provided that the maximum period referred to in paragraph 1 is not exceeded.</p> <p><i>Ex Article 11(2)(2a). The reference to Article 6(2) is excluded as it relates to the labour market test which is now in Article 11a(6):</i></p> <p>3. Within the maximum period</p>
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		<p>referred to in <u>Article 11</u> paragraph (1) and provided that the <i>provisions of Articles 5 or 5b</i> are <i>complied</i> with and the grounds set out in Articles 6(1), (1a) and, <u>if applicable</u> (3) are not met, <i>Member States shall allow seasonal workers one extension of their stay to be employed with a different employer.</i></p> <p><i>Ex Article 11(2aa):</i></p> <p>4. Member States may decide, in accordance with their national law, to allow seasonal workers to be employed by a different employer and to extend their stay more than once, provided that the maximum period referred to in paragraph 1 is not exceeded.</p> <p><i>Ex Article 11(3):</i></p> <p>5. For the purposes of paragraphs 1 to 4, Member States shall accept the submission of an application by when the seasonal worker admitted under the terms of this Directive is on the territory of the Member State concerned.</p> <p><i>Ex Article 7(5)</i></p>
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			<p><i>Presidency proposal to combine it with the last sentence of 6 (2):</i></p> <p><i>6. Member States may refuse to extend <u>the stay</u> or renew the authorisation for the purpose of seasonal work when the vacancy in question could be filled by nationals of the Member State concerned or by other Union citizens, or by third-country nationals lawfully residing in the Member State. This paragraph shall apply without prejudice to the principle of Union preference as expressed in the relevant provisions of the relevant Acts of Accession.</i></p> <p><i>Ex Article 7(6) on which agreement was reached already:</i></p> <p><i>7. Member States shall refuse to extend <u>the stay</u> or renew the authorisation for the purpose of seasonal work where the maximum duration of stay as defined in Article 11(1) has been reached.</i></p> <p><i>Article 7(7) adapted to extension/renewal:</i></p>
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			<p>8. Member States may refuse to extend the <u>stay</u> or renew the authorisation for the purpose of seasonal work issued on the basis of this Directive if the third-country national applies for international protection under Council Directive 2011/95/EU of 13 December 2011 or if the third-country national applies for protection in accordance with national law, international obligations or practice of the Member State concerned.</p> <p>Article 7(3a) as adapted to the new Article 11a:</p> <p>Article 7(1a) and (2)(b), (c) and (d) shall not apply to a seasonal worker who applies to be employed by a different employer in accordance with paragraph 3 when these provisions apply to the previous employer.</p> <p>Article 7(9) adapted to extension/renewal:</p> <p>10. Grounds for extension of a short-stay visa are regulated in the relevant provisions of Regulation (EC) No 810/2009 of the European</p>
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			<p><i>Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas.</i></p> <p><i>Article 7(10) adapted to extension/renewal:</i></p> <p><i>11. <u>Without prejudice to Article 5b(3) and (6) and Article 6(1), any Any decision on an application for an extension or renewal shall take account of the specific circumstances of the case, including the interests of the seasonal worker, and respect the principle of proportionality.</u></i></p>
	<i>Amendment 80</i>		
	<i>Article 11a</i> <i>Stays of up to three months</i>		<i>Agreement to delete the entire AM 80.</i>
	<i>1. Applications for a seasonal worker permit for a duration of up to three months shall be accompanied by an application for a Schengen visa, if required.</i>		

	<i>2. If the seasonal worker is admitted for a stay of up to three months and the extension referred to in Article 11(2) would result in the overall duration of the stay exceeding three months, the competent authorities shall issue a residence permit or a long-stay visa covering the duration of the extended stay.</i>		
	<i>Amendment 81</i>		
	<i>Article 11b Stays of more than three months</i>		<i>Agreement to delete the entire AM 81.</i>
	<i>1. Seasonal workers who are issued a seasonal worker permit of more than three months shall be issued a residence permit or a long-stay visa of the same duration.</i>		
	<i>2. The residence permit shall be issued by the competent authorities of the Member States using the format as laid down in Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals¹. In accordance with point (a) 6.4 of the Annex to that Regulation, Member States shall enter 'seasonal worker' under the heading 'type of permit'.</i>		

	3. The long-stay visa shall be issued in the uniform format for visas as set out in Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas² with the heading specifying the type of visa with the letter "D".		
	4. Member States shall withdraw or refuse to renew the residence permit or the long-stay visa when they withdraw or refuse to renew the seasonal worker permit.		
<i>Article 12 Facilitation of re-entry</i>		<i>Article 12 Facilitation of re-entry</i>	
	<i>Amendment 82</i>		
1. Member States shall either:	1. Member States shall, <i>provided that the conditions laid down in Article 5(1) continue to apply</i> , either:	1. Member States [...] may	<i>Pending</i> <i>Related to recital (17)</i> <i>Council Position:</i> 1. Member States <i>may facilitate the admission of third-country nationals who were admitted to that Member State as seasonal workers at least once and who fully respected the conditions applicable to seasonal workers as laid down in this Directive during each of their stays.</i> <i>Presidency recommends, in the</i>

			<p><i>context of an overall agreement, to accept EP suggestion to have "shall" in the first paragraph and "may" in the second paragraph:</i></p> <p>1. Member States <i>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 as laid down in this Directive during each of their stays.</i></p>
<p>(a) upon application, issue up to three seasonal worker permits covering up to three subsequent seasons within one administrative act ('multi-seasonal worker permit')</p>	<p>(a) upon application, issue <i>a third-country national with</i> up to three seasonal worker permits covering up to three subsequent seasons within one administrative act ('multi-seasonal worker permit'), <i>without prejudice to the maximum duration of stay laid down in Article 11(1); where the application is lodged by a seasonal worker, the employer shall inform the competent authorities that he or she wishes to employ the worker concerned under a multi-seasonal employment contract;</i></p>	<p>(a) upon application, issue up to three seasonal worker permits covering up to three subsequent seasons within one administrative act [...],</p>	<p><i>Presidency suggestion:</i></p> <p>2. The facilitation referred to in paragraph 1 may include one or more measures such as:</p> <p><i>a) an exemption from submitting one or more documents referred to in Articles 5 or 5b;</i></p> <p><i>b) the issuance of several seasonal worker permits within one administrative act;</i></p> <p><i>c) an accelerated procedure leading to a decision on the application for the seasonal</i></p>

			<p><i>worker permit or the long stay visa;</i></p> <p><i>d) priority in examining applications for admission as a seasonal worker including taking into account previous admission when deciding on applications with regard to the exhaustion of volumes of admission.</i></p>
or		and/or	<i>Agreement on deletion in light of the above compromise suggestions.</i>
(b) provide a facilitated procedure for third-country nationals who were admitted to that Member State as seasonal workers and who apply to be admitted as such in a subsequent year.	(b) provide a facilitated procedure for third-country nationals who were admitted to that Member State as seasonal workers and who apply to be admitted as such in a subsequent year.	(b) provide a facilitated procedure for third-country nationals who were admitted to that Member State as seasonal workers and who apply to be admitted as such in a subsequent year.	<i>Agreement on deletion in light of the above compromise suggestions.</i>
	<i>Amendment 83</i>		
2. Member States shall provide that:	2. Member States shall provide that a third-country national who has not complied with the obligations arising from the <i>decision to issue a seasonal worker permit</i> during a previous stay as a seasonal worker, and in particular with the obligation to return <i>or proceed</i> to a third country on the expiry of their <i>seasonal worker permit, or who has been convicted of a serious offence under the law of the</i>	<i>deleted</i>	<p><i>Agreement to delete paragraph 2.</i></p> <p><i>The principle of proportionality is referred to in Articles 6(4) and 7(5).</i></p>

	Member State, may be excluded from admission as <i>a</i> seasonal worker for one or more subsequent years. Any exclusion shall be proportionate to the circumstances of the case.		
(a) a third-country national who has not complied with the obligations arising from the admission decision during a previous stay as a seasonal worker, and in particular with the obligation to return to a third country on the expiry of the permit, shall be excluded from admission as seasonal worker for one or more subsequent years;	<i>moved into the first paragraph</i>	cf Council text in Articles 6(4) and 7(4).	<i>Agreement to delete point (a)</i>
(b) an employer who has not fulfilled the obligations arising out of the work contract shall be subject to effective, proportionate and dissuasive sanctions. Such employers shall be excluded from applications for seasonal workers for one or more subsequent years.	deleted (<i>moved to new Article 12a</i>)	cf Council text in Article 7(3)(c) and Article 7b.	<i>Agreement to delete point (b)</i>
	Amendment 84		
	2a. Member States shall determine the conditions under which seasonal workers may apply for a longer-term residence permit.		<i>In the context of an overall agreement, EP could agree to drop AM 84.</i>

	<i>Amendment 85</i>		
	<i>Article 12a Sanctions against employers</i>		
	<i>1. An employer who has not fulfilled the obligations arising under this Directive shall be subject to effective, proportionate and dissuasive sanctions. Such employers shall be excluded from applications for seasonal workers for one or more subsequent years.</i>		<p><i>cf Council text in Article 7b</i></p> <p><i>Agreement on:</i></p> <p><i>1. Member States shall provide for sanctions against employers who have not fulfilled their obligations arising from this Directive, including the exclusion of employers who are in serious breach of their obligations under this Directive from employing seasonal workers. Those sanctions shall be effective, proportionate and dissuasive.</i></p> <p><i>See related Recital 17b</i></p>
	<i>2. In the case of subcontracting, Member States shall ensure that the main contractor and any intermediate subcontractor may be liable for any infringement of the provisions of this Directive and be subject to effective, proportionate and dissuasive sanctions.</i>		<p><i>Pending</i></p> <p><i>Parliament wants "shall" in paragraph 3(a) but could consider the Council suggestion as part of an overall agreement</i></p> <p><i>Council suggestion:</i></p> <p><i>3. Where the employer is a subcontractor who has infringed the provisions of this Directive, the main contractor and any</i></p>

			<p><i>intermediate subcontractor, where they have not undertaken due diligence obligations as defined by national law:</i></p> <p><i>(a) may be subject to the sanctions defined in paragraph 1;</i></p> <p><i>(b) may, in addition to or in place of the employer, be liable to pay any compensation due to the seasonal worker in accordance with paragraph 2; and</i></p> <p><i>(c) may, in addition to or in place of the employer, be liable to pay any back payments due to the seasonal worker under national law.</i></p> <p><i>Member States may provide for more stringent liability rules under national law.</i></p>
	<p><i>3. Member States shall ensure that, if the seasonal worker permit is withdrawn pursuant to point (ba), (bb) or (bc) of Article 7(2), the seasonal worker shall be entitled to receive an adequate level of compensation from the employer, and that the necessary mechanisms are in place to facilitate this.</i></p>		<p><i>Agreement on:</i></p> <p><i>2. Member States shall ensure that, if the authorisation for the purpose of seasonal work is withdrawn pursuant to points (a) and (b) of paragraph 1a and points (b), (c) and (d) of paragraph 2 of Article 7, the employer shall be liable to pay compensation to the seasonal worker in accordance with procedures under national law. Any liability shall cover any</i></p>

			<p><i>outstanding obligations which the employer would have to respect if the authorisation for the purpose of seasonal work had not been withdrawn.</i></p> <p><i>References should be adapted to the final text of Article 7.</i></p>
<p><i>Article 13</i> <i>Procedural safeguards</i></p>		<p><i>Article 13</i> <i>Procedural safeguards</i></p>	
	<p><i>Amendment 86</i></p>		
<p>1. The competent authorities of the Member State shall adopt a decision on the application and notify the applicant in writing, in accordance with the notification procedures laid down in the national law of the Member State, within 30 days of the complete application being lodged.</p>	<p>1. The competent authorities of the Member State shall adopt a decision on the application <i>for a seasonal worker permit based on the provisions laid down in Articles 5 and 6</i> and shall notify the applicant in writing, in accordance with the notification procedures laid down in the national law of the Member State, within 30 days of the complete application being lodged. <i>The decision on an application submitted in accordance with Article 11(2) shall be taken within 15 days of the complete application being lodged.</i></p>	<p>1. The competent authorities of the Member State shall adopt a decision on the application for authorisation for the purpose of seasonal work and notify the applicant in writing, in accordance with the notification procedures laid down in the national law of the Member State, [...] as soon as possible but not later than 90 days from the date on which the complete application was lodged.</p>	<p><i>Related to recital (18b)</i></p> <p><i>Pending</i></p> <p><i>Council maintains its position (as soon as possible and not later than 90 days).</i></p> <p><i>EP proposal: "as soon as possible but not later than 60 days from the date on which the complete application is lodged. In exceptional circumstances, that period may be extended by 30 days".</i></p> <p><i>In addition, EP proposes a shorter period in the case of deciding on the extension of a stay.</i></p> <p><i>Presidency suggestion:</i></p>

		<p>1. The competent authorities of the Member State shall adopt a decision on the application <i>for authorisation for the purpose of seasonal work</i> and notify the applicant in writing, in accordance with the notification procedures laid down in the national law of the Member State, <i>as soon as possible but not later than 90 days from the date on which the complete application was lodged.</i></p> <p><i>Rapporteur's proposal:</i> <i>1a. In the case of an application for an extension or renewal of <u>stay</u> the authorisation pursuant to Article 11a, the seasonal worker shall be allowed to work until a decision on the application has been taken by the competent authorities, provided that the time period referred to in Article 11(1) has not expired.</i></p> <p><i>Presidency suggestion</i></p> <p><i>1a. In the case of an application for an extension <u>of stay</u> or renewal of the authorisation pursuant to Article 11a, Member States shall take all reasonable steps to ensure that the seasonal worker is not</i></p>
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			<p><i>obliged to interrupt his or her employment relationship with the same employer, or prevented from changing employer, due to on-going administrative procedures.</i></p> <p><i>If the validity of the authorisation for the purpose of seasonal work expires during the procedure for extension or renewal, <u>in accordance with their national law</u>, Member States shall allow the seasonal worker to stay on their territory until a decision on the application has been taken by the competent authorities, provided that the application was submitted within the validity of that authorisation and that the time period referred to in Article 11(1) has not expired. In such a case, Member States may, inter alia, decide to:</i></p> <p><i>a) issue national temporary residence permits or equivalent authorisations until a decision is made, and/or</i></p> <p><i>b) allow the seasonal worker to work during that period.</i></p> <p><i>During the period of examination of the application for extension or renewal, the relevant provisions of</i></p>
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			<i>this Directive shall apply.</i>
	<i>Amendment 87</i>		
	<i>National law of the relevant Member State shall determine any consequence of a decision not having been taken by the end of the period provided for in the first subparagraph.</i>		<i>EP drops this amendment.</i>
	<i>Amendment 88</i>		
2. Where the information supplied in support of the application is inadequate, the competent authorities shall notify the applicant within a reasonable period of the additional information that is required and set a reasonable deadline for providing it.	2. Where the information <i>or documentation</i> supplied in support of the application is <i>incomplete</i> , the competent authorities shall notify the applicant within a reasonable period of the additional information that is required and set a reasonable deadline for providing it. <i>The period referred to in paragraph 1 shall be suspended until the authorities have received the additional information required.</i>	2. Where the information supplied in support of the application for authorisation for the purpose of seasonal work is inadequate, the competent authorities shall notify the applicant within a reasonable period of the additional information that is required and set a reasonable deadline for providing it.	<i>Agreement on EP text.</i>
	<i>Amendment 89</i>		
3. Any decision rejecting an application, or any decision not to renew or to withdraw the permit, shall be notified in writing to the applicant and shall be open to a legal challenge in the Member State concerned in accordance with national law. The notification shall specify the reasons for the decision,	3. Any decision rejecting an application, or any decision not to renew or to withdraw the <i>seasonal worker</i> permit, shall be notified in writing to the applicant <i>and, where relevant, to the employer in accordance with the notification procedures under the relevant national law</i> and shall be open to a	3. Without prejudice to the procedure which may be required for the issuance of a visa referred to in Article 9(4) , any decision rejecting an application for authorisation for the purpose of seasonal work or any decision not to extend/renew or to withdraw the [...] authorisation for the purpose	<i>Pending</i> <i>Conditional on a duration of 90 days for processing an application (Article 13(1)), the Council suggests the following text for paragraphs 3 and 3a which would have the support of the EP and recital (18b).</i>

<p>the possible redress procedures available and the time limit for taking action.</p>	<p>legal challenge in the Member State concerned in accordance with national law. The notification shall specify the reasons for the decision, the possible redress procedures available and the time limit for taking action.</p>	<p>of seasonal work shall be notified in writing to the applicant and shall be open to a legal challenge in the Member State concerned in accordance with national law. The notification shall specify the reasons for the decision, the possible redress procedures available and the time limit for taking action.</p>	<p><i>3. Reasons for a decision declaring inadmissible an application for authorisation for the purpose of seasonal work or rejecting an application for authorisation for the purpose of seasonal work or refusing <u>extension of stay or renewal of the authorisation for the purposes of seasonal work</u> shall be given in writing to the applicant. Reasons for a decision withdrawing the authorisation for the purpose of seasonal work shall be given in writing to both the seasonal worker and, if provided for in national law, the employer.</i></p> <p><i>3a. Any decision declaring inadmissible an application for authorisation for the purpose of seasonal work or rejecting the application, refusing <u>extension of stay or renewal of an authorisation for the purposes of seasonal work</u> or withdrawing an authorisation for the purpose of seasonal work shall be open to a legal challenge in the Member State concerned, in accordance with national law. The written notification shall specify the court and/or administrative authority where an appeal may be</i></p>
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			<i>lodged</i> and the time-limit for <i>lodging the appeal</i> .
		4. Procedures and decisions concerning short-stay visas are regulated in the relevant provisions of the Schengen <i>acquis</i>.	Agreement on: 4. Procedural safeguards concerning short-stay visas are regulated in the relevant provisions of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas.
		Article 13a Fees	Council agrees to EP suggestion to merge Article 13a and Article 14a EP text: Article 13a Fees and costs
		Member States may require applicants to pay fees for handling applications in accordance with this Directive. The level of such fees shall be proportionate and may be based on the services actually provided for the processing of applications and the issuance of authorisations for the purpose of seasonal work. Fees for short-stay visas are regulated in the relevant provisions of the Schengen	Cf EP amendment 91 <i>Pending</i> <i>EP suggestion:</i> Member States may require the payment of fees for the handling of applications in accordance with this Directive. The level of such fees shall not be disproportionate or excessive. Fees for short-stay visas are regulated in the relevant

		<p><i>acquis.</i></p>	<p><i>provisions of the Schengen acquis. Where those fees are paid by the third-country national, that third-country national shall be entitled to be reimbursed by the employer.</i></p> <p><i>Council suggestion as part of an overall agreement</i></p> <p><i>1. Member States may require the payment of fees for the handling of applications in accordance with this Directive. The level of such fees shall not be disproportionate or excessive. Fees for short-stay visas are regulated in the relevant provisions of the Schengen acquis. Where those fees are paid by the third-country national, Member States may provide that they are entitled to be reimbursed by the employer in accordance with national law.</i></p> <p><i>2. Member States may require employers of seasonal workers to pay for</i></p> <p><i>(a) the cost of travel from the seasonal workers' place of origin to the place of work in the Member State concerned and the return journey;</i></p> <p><i>(b) the cost of sickness insurance</i></p>
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			<i>referred to in point (b) of Article 5(1) and point (b) of Article 5b(1). When paid by the employers, such expenses shall not be recoverable from the seasonal worker.</i>
<i>Article 14 Accommodation</i>		<i>Article 14 Accommodation</i>	<i>joint LIBE-EMPL competence</i>
	<i>Amendment 90</i>		
Member States shall require employers of seasonal workers to provide evidence that the seasonal worker will benefit from accommodation that ensures an adequate standard of living. If seasonal workers are required to pay rent for such accommodation, its cost shall not be excessive in relation to their remuneration.	<i>1. Member States shall require employers of seasonal workers to provide evidence that the seasonal worker will benefit from adequate accommodation, pursuant to national legislation and practice, that ensures a decent standard of living for the duration of the employment contract. As a minimum, such accommodation shall provide the conditions and facilities essential for health, security, comfort and nutrition as certified by the competent authorities. These provisions shall be without prejudice to the possibility for seasonal workers to freely choose their own accommodation.</i>	Member States shall require the [...] applicant to provide evidence that the seasonal worker will benefit from accommodation that ensures an adequate standard of living according to national legislation and/or practice . If [...] the accommodation is provided by the employer and the seasonal [...] worker is required to pay rent for such accommodation, its [...] costs shall not be excessive in relation to their remuneration.	<i>Related to recital (19) and Article 5(1)(d) EP text - 5(1)(c) Council text</i> <i>Agreement on:</i> 1. Member States shall require evidence that the seasonal worker will benefit from accommodation that ensures an adequate standard of living according to national legislation and/or practice, for the duration of stay. The competent authority shall be informed of any change of accommodation of the seasonal worker.

	<p>2. The seasonal worker shall be given a rental contract or equivalent document in which the conditions and cost of the accommodation are clearly stated for the duration of their stay. If the seasonal worker is required to pay rent for such accommodation, its cost shall not be excessive in relation to their <i>net</i> remuneration <i>nor to the quality of the accommodation and it shall not be automatically deducted from their wage.</i></p>		<p>Agreement on:</p> <p>2. Where accommodation is arranged by or through the employer:</p> <p>(a) <i>the seasonal worker may be required to pay a rent whose cost shall not be excessive in relation to his/her net remuneration nor to the quality of the accommodation in question. Such rent shall not be automatically deducted from the wage of the seasonal worker;</i></p> <p>(b) <i>the employer shall provide the seasonal worker with a rental contract or equivalent document in which the rental conditions of the accommodation are clearly stated;</i></p> <p>(c) <i>the employer shall ensure that the accommodation meets the general health and safety standards in force in the Member State concerned;</i></p>
	<p>3. Any change of accommodation shall be reported to the competent authority. The new accommodation shall fulfil the conditions laid down in paragraphs 1 and 2.</p>		<p>Agreement to delete paragraph 3 because covered by paragraph 1.</p>

	<i>Amendment 91</i>		
	<i>Article 14a Costs</i>		<i>cf Council text in Article 13a</i>
	<i>Member States shall require employers of seasonal workers to pay for the cost of travel from the seasonal workers' place of origin to the place of work in the Member State concerned and the return journey.</i>		
	<i>Member States may require employers of seasonal workers to pay for:</i>		
	<i>(a) the visa fee and, if applicable, any service fees related to the visa; and</i>		
	<i>(b) the cost of health insurance referred to in point (c) of Article 5(1).</i>		
	<i>When paid by the employers, such expenses shall not be recoverable from the seasonal worker.</i>		
		<i>Article 14a Placement by public employment services</i>	
		Member States may determine that the placement of seasonal workers from third countries shall only be carried out by public employment services.	<i>Agreement on: Member States may determine that the placement of seasonal workers shall only be carried out by public employment services.</i>

CHAPTER IV Rights		CHAPTER IV Rights	
	<i>Amendment 92</i>		
<i>Article 15</i> <i>Rights on the basis of the seasonal worker permit/visa</i>	<i>Article 15</i> <i>Rights on the basis of the seasonal worker permit [...]</i>	<i>Article 15</i> <i>Rights on the basis of the seasonal worker permit or the long-stay visa</i>	<i>Agreement on:</i> <i>Article 15</i> Rights on the basis of the <i>authorisation for the purpose of seasonal work</i>
During the period of validity of a seasonal worker permit, the holder shall enjoy at least the following rights:	During the period of validity of the seasonal worker permit, the holder shall enjoy at least the right to exercise the concrete employment activity authorised under the permit in accordance with national law.	During the period of validity of a seasonal worker permit or a long-stay visa, issued for the purpose of seasonal employment the holder shall enjoy at least the following rights:	<i>Agreement on:</i> During the period of validity of <i>the authorisation referred to in Article 9</i> , the holder shall enjoy at least the following rights:
(a) the right to enter and stay in the territory of the Member State issuing the permit;	<i>deleted (moved to Article 15a)</i>	(a) the right to enter and stay in the territory of the Member State issuing the seasonal worker permit or the long-stay visa, provided that the holder meets all the admission requirements in accordance with national law;	<i>Agreement on:</i> (a) the right to enter and stay in the territory of the Member State issuing the <i>authorisation</i> ,
(b) free access to the entire territory of the Member State issuing the permit within the limits provided for by national law;	<i>deleted (moved to Article 15a)</i>	(b) free access to the entire territory of the Member State issuing the seasonal worker permit or the long-stay visa within the limits provided for by national law;	<i>Agreement on:</i> (b) free access to the entire territory of the Member State issuing the <i>authorisation</i> within the limits provided for by national law;

(c) the right to exercise the concrete employment activity authorised under the permit in accordance with national law.	<i>moved to the first paragraph</i>	(c) the right to exercise the concrete employment activity authorised under the seasonal worker permit as well as under the long-stay visa and the work permit, if required, in accordance with national law.	<i>Agreement on:</i> (c) the right to exercise the concrete employment activity authorised under the <i>authorisation</i> in accordance with national law.
	<i>Amendment 93</i>		
	<i>Article 15a</i> <i>Rights on the basis of the residence permit or the long-stay visa</i>		<i>Agreement to delete</i>
	<i>During the period of validity of the residence permit, the holder shall enjoy at least the following rights:</i>		
	<i>(a) the right to enter and stay in the territory of the Member State issuing the permit; and</i>		
	<i>(b) free access to the entire territory of the Member State issuing the permit within the limits provided for by national law.</i>		
<i>Article 16</i> <i>Rights</i>		<i>Article 16</i> <i>Right to equal treatment</i>	<i>exclusive EMPL competence</i>
	<i>Amendment 94</i>		
Whatever the law applicable to the employment relationship, seasonal workers shall be entitled to:	Seasonal workers shall be entitled to <i>equal treatment with nationals of the host Member State as a minimum with regard to:</i>	1. Seasonal workers admitted under this directive shall enjoy equal treatment with nationals of the Member State concerned with regard to:	<i>Related to recitals (20), (21), (22), (22a), (22b) EP text and (22b) Council text and recital (22ba).</i> <i>Pending</i> <i>Agreement on individual provisions of Article 16 depends on overall agreement on entire article.</i>

			<p><i>Agreement on:</i></p> <p>1. Seasonal workers shall be entitled to <i>equal treatment with nationals of the host Member State at least with regard to:</i></p>
<p>1. working conditions, including pay and dismissal as well as health and safety requirements at the workplace, applicable to seasonal work as laid down by law, regulation or administrative provision and/or universally applicable collective agreements in the Member State to which they have been admitted according to this Directive.</p>	<p>1. <i>terms of employment, including the minimum working age, and working conditions, including pay and dismissal, working hours, leave and holidays,</i> as well as health and safety requirements at the workplace, as laid down by law, regulation or administrative provision, collective agreements <i>and contracts concluded at any level, in accordance with the host Member State's national law and practice and under the same terms as those applicable to nationals of the host Member State.</i></p>	<p>(a) working conditions, including pay and dismissal as well as health and safety requirements at the workplace; [...]</p>	<p><i>Related to recital (21)</i></p> <p><i>Agreement on:</i></p> <p><i>(a) terms of employment, including the minimum working age, and working conditions, including pay and dismissal, working hours, leave and holidays,</i> as well as health and safety requirements at the workplace;</p>
<p>In the absence of a system for declaring collective agreements to be of universal application, Member States may, if they so decide, base themselves on collective agreements which are generally applicable to all similar undertakings in the geographical area and in the profession or industry concerned, and/or collective agreements which have</p>	<p><i>deleted</i></p>	<p>deleted</p>	<p><i>Agreement to delete</i></p>

been concluded by the most representative employers' and labour organisations at national level and which are applied throughout national territory;			
2. equal treatment with nationals of the host Member State as regards at least with regard to:	<i>deleted</i>		<i>Agreement to delete</i>
(a) freedom of association and affiliation and membership of an organisation representing workers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;	2. freedom of association and affiliation and membership of an organisation representing workers or of any organisation whose members are engaged in a specific occupation, including the <i>rights and</i> benefits conferred by such organisations, <i>inter alia the right to negotiate and conclude collective agreements and the right to strike and take industrial action, in accordance with the host Member State's national law and practices,</i> without prejudice to the national provisions on public policy and public security;	(b) freedom of association and affiliation and membership of an organisation representing workers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;	<i>Agreement on:</i> (b) the right to strike and take industrial action, in accordance with the host Member State's national law and practices, freedom of association and affiliation and membership of an organisation representing workers or of any organisation whose members are engaged in a specific occupation, including the <i>rights and</i> benefits conferred by such organisations, <i>inter alia the right to negotiate and conclude collective agreements,</i> without prejudice to the national provisions on public policy and public security;
	3. back payments to be made by the employers. In respect of infringements of this Article, the employer shall pay:		<i>Agreement on:</i> (c) back payments to be made by the employers, concerning any outstanding remuneration to the third-country national;

	<i>(a) any outstanding remuneration to the third-country national; and</i>		<i>EP text dropped following agreement on previous text.</i>
	<i>(b) any outstanding taxes and social security contributions, including relevant administrative fines;</i>		<i>EP text dropped following agreement on previous text.</i>
(b) provisions in national laws regarding the branches of social security as defined in Article 3 of Council Regulation (EC) No 883/04;	4. [...] branches of social security, as defined in Article 3 of Regulation (EC) No 883/2004. Each Member State remains responsible, in the absence of harmonisation at Union level, for laying down in its legislation, in compliance with Union law, the non-discriminatory rules governing the granting of social security benefits, as well as the amount and duration of such benefits;	(c) provisions in national laws regarding the branches of social security as defined in Article 3 of Council Regulation (EC) No 883/04;	<i>Agreement to take the first sentence in the Article considering that the second sentence is included in recital (22a)</i> (d) branches of social security, as defined in Article 3 of Regulation (EC) No 883/2004;
(c) payment of statutory pensions based on the worker's previous employment under the same conditions as nationals of the Member States concerned when they move to a third country;	<i>deleted</i>	(d) payment of statutory pensions based on the worker's previous employment and acquired in accordance with the legislation referred to 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 [...] moving to a third country;	<i>Agreement to delete cf last paragraph (after paragraph 8)</i>

<p>(d) access to goods and services and the supply of goods and services made available to the public, except public housing and counselling services afforded by employment services.</p>	<p>5. access to goods and services and the supply of goods and services made available to the public <i>in accordance with national law. This paragraph shall be without prejudice to freedom of contract in accordance with national and Union law;</i></p>	<p>(e) access to goods and services and the supply of goods and services made available to the public, except [...] procedures for obtaining housing as provided for by national law, without prejudice to the freedom of contract in accordance with Union and national law, and [...] services afforded by employment [...] offices.</p>	<p><i>Agreement on the following text in conjunction with recitals (22a) and (22b):</i> (e) access to goods and services and the supply of goods and services made available to the public, except housing, <i>without prejudice to the freedom of contract in accordance with Union and national law;</i></p>
			<p><i>Agreement on :</i> (f) advice services on seasonal work afforded by employment offices;</p>
	<p>6. education and vocational training;</p>		<p><i>Pending</i> <i>EP could as part of an overall agreement accept:</i> (g) vocational training; <i>Council suggestion:</i> (g) vocational training when it is directly related to work with the exception of study and maintenance grants and loans or other grants and loans; <i>Presidency suggestion:</i></p>

			<i>(g) education and vocational training;</i>
	<i>7. recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures and with Union law; and</i>		Agreement on the following text: <i>(h) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures;</i>
	<i>8. tax benefits, in so far as the seasonal worker is deemed to be resident for tax purposes in the Member State concerned.</i>		Pending <i>(i) tax benefits, in so far as the seasonal worker is deemed to be resident for tax purposes in the Member State concerned.</i>
	<i>Third-country national 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, in relation to old-age, employment injury, invalidity and death, 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</i>		Agreement on: <i>Third-country national 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</i>

	<i>when they move to a third country.</i>		<i>when they move to a third country.</i>
		<p>2. Member States may decide that equal treatment under point (c) of paragraph 1 shall not apply as regards family benefits and unemployment benefits, without prejudice to Council Regulation (EC) No 1231/2010.</p>	<p><i>Pending</i></p> <p><i>EP suggestion to delete. EP is of the opinion that although most seasonal workers would not qualify for these benefits but if they do, they should have the right to get them.</i></p> <p><i>Council cannot accept deletion.</i></p> <p><i>In the context of an overall agreement, the Rapporteur could propose to accept the paragraph 2 of the Council Position in combination with the EP suggestions on paragraph 1 and without the Council suggestion for a new paragraph 2a.</i></p> <p><i>Alternatively, the rapporteur could accept to apply the regime on rights of the Single Permit Directive in its entirety with regard to points (g) and (i) and paragraph 2 .</i></p> <p><i>In this light, the Presidency makes the following suggestion for a new paragraph 2, to delete paragraph 2a and recital (22ba) and to amend recital (22):</i></p> <p>2. Member States may restrict</p>

			<p><i>equal treatment:</i></p> <p><i>(i). under point (d) of paragraph 1 by excluding family benefits and unemployment benefits, without prejudice to Council Regulation (EC) No 1231/2010;</i></p> <p><i>(ii). under point (g) 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;</i></p> <p><i>(iii). under point (i) 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.</i></p>
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			<p><i>Pending</i></p> <p><i>Council suggestion:</i></p> <p><i>2a. Member States may decide that equal treatment under point (i) of paragraph 1 shall not apply to 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.</i></p> <p><i>Presidency suggests to delete paragraph 2a and incorporate its contents in its suggestion for a new paragraph 2.</i></p>
	<i>Amendment 95</i>		
The right to equal treatment provided for in paragraph 2 shall be without prejudice to the right of the Member State to withdraw or to refuse to renew the permit in accordance with Article 7.	The right to equal treatment provided for in <i>this Article</i> shall be without prejudice to the right of the Member State to withdraw or to refuse to renew the permit in accordance with Article 7.	3. The right to equal treatment provided for in paragraph [...] 1 shall be without prejudice to the right of the Member State to withdraw or to refuse to extend or renew the [...] authorisation for the purpose of seasonal work in accordance with Article 7.	<p><i>Presidency suggests to maintain Council text:</i></p> <p>3. The right to equal treatment provided for in paragraph 1 shall be without prejudice to the right of the Member State to withdraw or to refuse to extend or renew the authorisation for the purpose of seasonal work in accordance with Article 7</p>

	Amendment 96		
	Article 16a Monitoring and inspections		Article 16a Monitoring, assessment and inspections
	<i>1. Member States shall ensure that appropriate monitoring mechanisms in respect of employers, recruitment agencies or other intermediaries are put in place and that adequate and regular inspections are carried out on their territory to ensure that the provisions laid down in this Directive, in particular regarding rights, working conditions and accommodation are fully respected throughout the duration of the seasonal workers' stay in the Member State concerned.</i>		Agreement on: <i>1. Member States shall provide measures aimed at preventing possible abuses and at sanctioning infringements. They shall include monitoring, assessment and, where appropriate, inspection in accordance with national law or administrative practices.</i>
	<i>Member States shall ensure that organisations representing workers' interests have access to the workplace and, with the agreement of the worker, to the accommodation.</i>		Agreement on: <i>2. Member States shall ensure that services in charge of inspection of labour or competent authorities and, where provided for under national law for national workers, organisations representing workers' interest have access to the workplace and, with the agreement of the worker, to the accommodation.</i>

			<p>Agreement on the following text to be included in Recital 22c:</p> <p>The selection of employers to be inspected should be based primarily on a risk assessment to be drawn up by the competent authorities in the Member States taking into account factors such as the sector in which a company operates and any past record of infringement.</p>
	<p>2. Member States shall ensure that at least 10% of employers offering seasonal employment established on their territory are subject to inspections every year.</p>		<p>EP agrees to drop this paragraph.</p>
	<p>3. The selection of employers to be inspected shall be based on a risk assessment to be drawn up by the competent authorities in the Member States taking into account factors such as the sector in which a company operates and any past record of infringement.</p>		<p>EP agrees to drop this paragraph.</p>
<p>Article 17 Facilitation of complaints</p>		<p>Article 17 Facilitation of complaints</p>	<p>joint LIBE-EMPL competence</p>
	<p>Amendment 97</p>		
	<p>1. Member States shall ensure that there are effective mechanisms through which seasonal workers may lodge complaints against their employers, recruitment agencies or</p>		<p>Agreement on: 1. Member States shall ensure that there are effective mechanisms through which seasonal workers may lodge complaints against their</p>

	<i>other intermediaries, 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 a competent authority of the Member State when provided for by national legislation.</i>		<i>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 a competent authority of the Member State when provided for by national legislation.</i>
Member States shall ensure that third parties which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring compliance with this Directive, may engage either on behalf of or in support of a seasonal worker, with his/her approval, in any administrative or civil proceedings provided for with the objective of implementing this Directive.	2. Member States shall ensure that third parties which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring compliance with this Directive, may engage either on behalf of or in support of a seasonal worker, with his/her approval <i>and after providing clear and comprehensible information</i> , in any administrative or civil proceedings provided for with the objective of implementing this Directive.	Member States shall ensure that third parties which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring compliance with this Directive, may engage either on behalf of or in support of a seasonal worker, with his/her approval, in any administrative or civil proceedings, excluding the procedures and decisions concerning short-stay visas , provided for with the objective of implementing this Directive.	<i>Agreement on the Council text.</i>
	3. <i>Member States shall adopt such measures as are necessary to protect seasonal workers against dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with this Directive.</i>		<i>Agreement on:</i> 3. Member States shall ensure that seasonal workers have the same access as other workers in a similar position to measures protecting against dismissal or other adverse treatment by the employer as a reaction to a

			<i>complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with this Directive.</i>
CHAPTER V Final provisions		CHAPTER V Final provisions	
<i>Article 18</i> <i>Statistics</i>		<i>Article 18</i> <i>Statistics</i>	
	<i>Amendment 98</i>		
1. Member States shall communicate to the Commission statistics on the number of residence permits and visas issued for the first time or renewed and, as far as possible, on the number of residence permits and visas withdrawn for the purpose of seasonal employment to persons who are third-country nationals, disaggregated by citizenship, age and sex, length of validity of the permit and economic sector.	1. Member States shall communicate to the Commission statistics on the number of <i>seasonal worker</i> permits issued for the first time or renewed and, as far as possible, on the number of <i>seasonal worker</i> permits withdrawn to persons who are third-country nationals, disaggregated by citizenship, age and sex, length of validity of the <i>seasonal worker</i> permit and economic sector.	1. Member States shall, communicate to the Commission statistics on the number of [...] authorisations for the purpose of seasonal work issued for the first time and, as far as possible, on the number of [...] third-country nationals whose authorisation for the purpose of seasonal work has been [...] extended/renewed [...] or withdrawn. These statistics should be disaggregated by citizenship, [...] the length of validity of the [...] authorisation and, as far as possible, by the economic sector.	<i>Agreement on Article 18:</i> 1. Member States shall, communicate to the Commission statistics on the number of <i>authorisations for the purpose of seasonal work</i> issued for the first time and, as far as possible, <i>on the number of third-country nationals whose authorisation for the purpose of seasonal work has been extended/renewed or withdrawn. These statistics shall be disaggregated by citizenship, and as far as possible by the length of validity of the authorisation and the economic sector.</i>

<p>2. The statistics referred to in paragraph 1 shall be communicated in accordance with Regulation (EC) No 862/2007 of the European Parliament and of the Council¹⁹.</p>		<p>2. The statistics referred to in paragraph 1 shall relate to reference periods of one calendar year and shall be communicated to the Commission within six months of the end of the reference year. The first reference year shall be <i>[the year following the point of time referred to in Article 20(1)]</i>.</p>	<p>2. The statistics referred to in paragraph 1 shall <i>relate to reference periods of one calendar year and</i> shall be communicated <i>to the Commission within six months of the end of the reference year. The first reference year shall be [the year following the point of time referred to in Article 20(1)].</i></p>
<p>3. The statistics referred to in paragraph 1 shall relate to reference periods of one calendar year and shall be communicated to the Commission within six months of the end of the reference year. The first reference year shall be <i>[the year following the point of time referred to in Article 20(1)]</i>.</p>		<p>3. The statistics referred to in paragraph 1 shall be communicated in accordance with Regulation (EC) No 862/2007 of the European Parliament and of the Council²⁰.</p>	<p>3. The statistics referred to in paragraph 1 shall be communicated <i>in accordance with Regulation (EC) No 862/2007 of the European Parliament and of the Council</i>²¹.</p>
<p><i>Article 19 Reporting</i></p>		<p>Article 19 <i>Reporting</i></p>	
	<p><i>Amendment 99</i></p>		
<p>Every three years, and for the first time no later than <i>[three years after the date of transposition of this Directive]</i>, the Commission shall submit a report to the European Parliament and to the Council on the application of this Directive in the Member States and shall</p>	<p>Every two years, and for the first time no later than <i>[two]</i> years after the date of transposition of this Directive], the Commission shall submit a report to the European Parliament and to the Council on the application of this Directive in the Member States and shall</p>	<p>Every three years, and for the first time no later than <i>[three years after the date of transposition of this Directive]</i>, the Commission shall submit a report to the European Parliament and to the Council on the application of this Directive in the Member States and shall</p>	<p><i>Agreement on Commission/Council text.</i></p>

¹⁹ OJ L 199, 31.7.2007, p. 23.

²⁰ OJ L 199, 31.7.2007, p. 23.

²¹ OJ L 199, 31.7.2007, p. 23.

propose any amendments necessary.	propose any amendments necessary.	propose any amendments necessary.	
<i>Article 20 Transposition</i>		<i>Article 20 Transposition</i>	
1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by <i>(24 months from the date of publication in the Official Journal of the European Union)</i> at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.		1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by <i>([...] three years from the date of publication in the Official Journal of the European Union)</i> at the latest. They shall forthwith communicate to the Commission the text of those provisions [...].	<i>Agreement on 30 months.</i>
When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.		When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	
2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.		2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	

<i>Article 21</i> <i>Entry into force</i>		<i>Article 21</i> <i>Entry into force</i>	
This Directive shall enter into force on the day following its publication in the <i>Official Journal of the European Union</i> .		This Directive shall enter into force on the day following its publication in the <i>Official Journal of the European Union</i> .	
<i>Article 22</i> <i>Addressees</i>		<i>Article 22</i> <i>Addressees</i>	
This Directive is addressed to the Member States, in accordance with the Treaty on the Functioning of the European Union.		This Directive is addressed to the Member States, in accordance with the Treaty on the Functioning of the European Union.	
Done at Brussels, [...]		Done at Brussels, [...]	
<i>For the European Parliament</i> <i>The President</i>		<i>For the European Parliament</i> <i>The President</i>	
<i>For the Council</i> <i>The President</i>		<i>For the Council</i> <i>The President</i>	