



## European Migration Network Focussed Study 2013

# Attracting Highly Qualified and Qualified Third-Country Nationals in the European Union and Estonia



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# Attracting Highly Qualified and Qualified Third-Country Nationals in the European Union and Estonia

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# ATTRACTING HIGHLY QUALIFIED AND QUALIFIED THIRD-COUNTRY NATIONALS IN THE EUROPEAN UNION



# Explanatory Note

This Synthesis Report was prepared on the basis of National Contributions from 23 EMN NCPs (Austria, Belgium, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovak Republic, Slovenia, Spain, Sweden and United Kingdom) according to a Common Template developed by the EMN and followed by EMN NCPs to ensure, to the extent possible, comparability.

National contributions were largely based on desk analysis of existing legislation and policy documents, reports, academic literature, internet resources and reports and information from national authorities. Statistics were sourced from Eurostat, national authorities and other (national) databases. The Statistics provided in this Synthesis Report are entirely sourced from Eurostat. The listing of Member States in the Synthesis Report results from the availability of information provided by the EMN NCPs in the National Contributions.

It is important to note that the information contained in this Report refers to the situation in the above-mentioned (Member) States up to and including 2013 and specifically the contributions from their EMN National Contact Points. More detailed information on the topics addressed here may be found in the available National Contributions and it is strongly recommended that these are consulted also.

EMN NCPs from other Member States could not, for various reasons, participate on this occasion in this Study, but have done so for other EMN activities and reports.

# Executive Summary

The purpose of this EMN Focussed Study 2013 was to outline policies and concrete practical measures in Member States that aim to attract (highly) qualified third-country nationals. The aims and objectives of the Study are set out in [Section 1](#) of the Report. [Section 2](#) presents an overview of the EU policy and *acquis* currently in place as well as the current trends in highly qualified and qualified third-country national migration for reasons of employment in the Member States. A full overview of the current Member State situations including concepts and measures used with regard to qualified and highly qualified third-country nationals is provided in [Section 3](#). [Section 4](#) examines the effectiveness of the policies and measures implemented by the Member States as well as emerging good practices and existing challenges and barriers. The impact of the EU *Acquis* is then presented in Section 5, with a short summary and conclusion set out in [Section 6](#).

## What did the study aim to do?

The Study aimed, firstly, to provide an overview of national policies and existing EU *Acquis* aimed at attracting (highly) qualified third-country nationals for the purpose of work. Concrete practical measures which are implemented to achieve the goals of the national policies were outlined. The Study investigated available evaluative evidence to inform practitioners, policy officers, decision makers and others about the effectiveness (or non-effectiveness) of different practical measures for attracting (highly) qualified third-country nationals. It aimed also to map labour migration agreements specifically targeting (highly) qualified third-country nationals and analysed their effectiveness. Finally, the study aimed to identify challenges and barriers that may affect the attractiveness of an EU Member State for the immigration of (highly) qualified third-country nationals and to draw conclusions on good practices and lessons learned with regard to attracting these individuals.

## Who is a highly qualified or qualified third-country national?

The understanding of who is considered a highly qualified or qualified third-country national varies in the Member States, with different definitions and concepts existing. This is due to the fact that these often depend on national labour market demands and other national criteria. Member States therefore do not have concrete definitions of these individuals but seem rather to mix definitions with concepts, and with specific academic, salary and professional requirements set to determine these individuals. The requirements applied in the Member States are frequently drawn from the ILO's International Standard Classification of Occupations, with highly qualified and qualified categories applied to occupations which include managers, professionals and associate professionals (Levels 1 – 3) as well as UNESCO's International Standard Classification of Education (ISCED) which provides an indication of the education levels attained by highly qualified individuals. The EU *Acquis* has also influenced the concepts used in the Member States, by setting out common definitions for both "highly qualified employment" and "higher professional qualifications" when Member States had no prior concepts and definitions.

## What provisions are available within the EU *Acquis*?

In the past 10 years, most EU Member States have introduced measures to facilitate entry to highly skilled third-country nationals. This tendency has been further stimulated by the implementation of Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research and, to a lesser extent given its recent transposition by Member States, Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment. The latter, EU 'Blue Card', Directive sets out a number of criteria for admission of highly qualified workers to EU Member States



which includes an obligation on third-country nationals to demonstrate a work contract of binding offer with a salary of at least 1.5 times the average gross annual salary paid in the Member State, or 1.2 times for certain professions where there is a particular need for third-country nationals due to identified shortages. The Directive also provides the holders of a Blue Card with the right to be accompanied by their family members, as well as providing these family members with access to the labour market, rules that are more flexible than those set out in the Family Reunification Directive. With regard to access to employment, Article 12 of the Directive provides that for the first two years of legal employment, access to the labour market shall be restricted to the exercise of paid employment activities which meet the conditions for admission. After two years of legal employment, the third-country nationals may receive equal treatment with nationals. The Blue Card also facilitates intra-EU mobility for the Blue Card holder and their family members after 18 months of legal residence.

In addition to the Blue Card Directive, the Researcher's Directive introduced a special procedure governing the entry and residence of highly qualified third-country nationals coming to the EU to carry out a research project for more than three months. The Directive provided an obligation on Member States to admit researchers if they comply with a number of conditions (including the presentation of a hosting agreement) and allocated a number of rights to the researchers, with holders of the residence permit entitled to equal treatment with Member State nationals regarding (a) the recognition of diplomas (b) working conditions including pay and dismissal (c) social insurance (d) tax concessions and (e) access to goods and services.

### **What is the scale of (highly) qualified immigration to the EU?**

In EU-27 between 2008 and 2012, there has been an increase in the proportional employment of third-country nationals in high-skill occupations (ISCO 1-3) in the total employed population from 4.06% of third-country nationals in 2008 compared to 4.29% in 2012, corresponding to an estimated 1.64 million persons. This increase was experienced by half of the 18 Member States for which reliable and comparable statistics were available. In the EU-27 in 2012, out of all employed third-country nationals, 26% had reached the highest educational attainment level (university degree and/or PhD, pertaining to ISCED categories 5-6) and 21% of them were working as either managers, professionals, technicians or associate professionals (falling under ISCO categories 1-3).

### **What national policies exist?**

Most of the Member States have policies and strategies in place for attracting (highly) qualified third-country nationals, many of which pre-date the EU Blue Card Directive. While the majority of the Member States include provisions targeting this group in wider migration policies, some have developed specific policies targeted at (highly) qualified migrants. Similarities exist in the rationale for establishing national policies and strategies, with the most common identified objectives being the creation of more jobs and growth, the contribution to the establishment of centres of research and excellence, the filling of shortages and existing labour market needs and the addressing of potential future labour market needs. As part of their national policy, some Member States have placed a specific focus on certain groups of individuals (e.g. self-employed workers, researchers, intra-corporate transferees) as well as for individuals working in precise areas of occupation (e.g. IT, healthcare, academia, sport). The systems in place in the Member State vary from points-based systems to systems which are employment-led. In some Member States where such policies are in place, higher shares of (highly) qualified workers have been reported.

### **What attracts (highly) qualified third-country nationals to a particular Member State?**

A wide array of measures are used by the Member States to attract these third-country nationals.

These include the fast-tracking of procedures, unrestricted access to the labour market, and the provision of information and employer sponsorship. Member States have also developed several measures aimed to positively influence the immigration decision of third-country nationals, by offering improved rights, benefits and incentives. These include the right to be accompanied by family members that go beyond the provisions in the Blue Card Directive, with unrestricted access to the labour market provided in some Member States. Other advantages are also offered to family member such as exemptions from proof of language skills and exemptions from signing integration contracts for family members of highly qualified workers. Tax incentives are also offered by a few Member States to both employers and (highly) qualified employees. These range from granting specific expatriate statuses which offer tax-free allowances and tax exemptions to general income tax reductions.

According to the Labour Force Survey, an estimated 11% of all working third-country nationals were self-employed in 2012. Several Member States have developed specific measures for self-employed, entrepreneurs and investors which define the conditions and criteria for admission and grant, in certain cases, specific benefits and exemptions to attract these groups. The focus on attracting entrepreneurs and investors appears to be increasing in the EU, with new targeted policies being introduced recently in some Member States. The conditions applying to self-employed and entrepreneurs primarily relate to the expected potential economic activity so that the Member State can assess the added value the third-country national will bring to the national economy. The main admission criteria relate to the sum of money to be invested as well as proof of secured funding for entrepreneurs.

#### **Are agreements in place with third countries?**

Member States have entered into many agreements with third countries which aim to facilitate labour migration though only a very limited number of these agreements focus specifically on attracting (highly) qualified third-country nationals to their territory. The limited number of specific agreements currently in place could be explained by the strong interest of Member States to attract the most relevant and talented (highly) qualified third-country nationals to their territory from anywhere in the world.

#### **Are policies and measures in the Member States effective?**

When looking at trends in the proportion of employed third-country nationals working in high-qualified occupations over the period 2008 to 2012, the vast majority of Member States which had specific policies and measures in place to attract (highly) qualified immigrants saw an increase in their proportion on the total number of employees in these occupational levels. Though an impact of the policies and measures can be seen in some cases, only a few Member States have specific evaluation systems in place for regularly assessing the impacts of policies aimed to attract highly qualified and qualified third-country nationals through the undertaking of evaluations, reports and interviews with stakeholders. Based on the examples provided by Member States through national evaluations (or individual analysis), emerging good practice has been identified in relation to a number of different aspects of the migration process. Identified good practices have been in the areas of information provision (provision of relevant up-to-date information and guidance to migrants and employers from third countries and the establishment of focal points), adaptation of migration procedures (replacing generic highly-skilled routes by more specialised routes, maintaining an open, employer-driven system), the introduction of incentives to attract (highly) qualified migrants (tax advantages, improved family reunification rights), and the customisation of labour market practices (ensuring that highly

qualified third-country nationals are employed in sectors showing a shortage of domestic supply, involvement of national institutions in scrutinising the suitability of applicants).

In addition to good practices, the Member State evaluations and analysis highlighted a number of existing challenges and barriers which can be categorised into three broad categories: (a) characteristics which are inherent to the Member State's culture, history and traditions (language, public debate related to immigration, community conflicts); (b) economic, social and educational factors (economic crisis, salaries/wages, working conditions) and (c) immigration rules and measures (bureaucracy, lack of information, waiting times to process applications etc.). The national evaluations undertaken have outlined that these challenges and barriers have led, in some cases, to shortage occupation lists not necessarily keeping pace with current needs, to targets initially agreed not being reached and to policies aim at attracting (highly) qualified third-country nationals ultimately having a limited impact on migration flows.

### **What impact has the EU Acquis had for attracting (highly) qualified third-country nationals?**

The instruments of the EU Acquis have impacted on the attraction of (highly) qualified third-country nationals. With regard to the Blue Card Directive, Member States identified a number of benefits arising from its provisions such as the introduction of a definition of highly qualified third-country nationals which did not exist in some national legislation prior to the Directive's transposition as well as the facilitation of intra-EU mobility, providing the opportunity to change jobs and be temporarily unemployed, providing access to long-term residence and the facilitation of family reunification. With regard to the Researcher's Directive, the main advantages identified in the Member States introduced by the provisions related to the exemption from the work permit requirement, the possibility to apply for a long term residence permit and the facilitation of family reunification.

### **What can be concluded?**

The findings of the study have shown that the policies in the Member States have developed considerably over recent years. EU-15 Member States have been among the first to develop policies and measures specifically aimed at attracting (highly) qualified third-country nationals, taking account of labour market needs and anticipating demographic change. In a number of cases, this happened before or during the introduction, adoption and transposition of the Blue Card Directive, which led to parallel schemes and measures within some Member States. Other Member States have relied on the introduction of the Blue Card to shape policy and regulate entry and admission. Member States with well-developed policies and measures are, overall, the ones also attracting the highest shares of (highly) qualified migrants.

The focus on attracting self-employed persons, entrepreneurs and investors is also increasing in the EU, in line with the development of EU policy in this area.

Though the development of policy specifically targeted at attracting (highly) qualified third-country national workers has been subject to debate in the Member States, due to high unemployment rates caused by the economic crisis, it is expected that national policies will further develop, with some Member States placing an increased focus on identifying specific occupational and sectoral gaps in the labour market which cannot be filled by nationals or EU citizens. As these policies and the measures to implement them develop, there will be a need to increase the monitoring and evaluation of both the labour market and the national policies in order to ensure that national objectives are being met, labour market needs are identified and that any challenges and obstacles faced by (highly) qualified third-country nationals wishing to enter the EU are effectively removed.

# 1. Introduction

The aim of this focussed study was to outline policies and concrete practical measures in Member States that aim to attract (highly) qualified third-country nationals. More specifically, the study aimed to achieve the following objectives:

- Provide an overview of national policies and EU acquis aimed at attracting (highly) qualified third-country nationals for the purpose of work;
- Outline concrete practical measures which are implemented to achieve the goals of the national policies;
- Investigate available evaluative evidence and inform practitioners, policy officers, decision makers and others about the effectiveness (or non-effectiveness) of different practical measures for attracting (highly) qualified third-country nationals where possible;
- Map labour migration agreements specifically targeting (highly) qualified third-country nationals and analysing their effectiveness, also in the framework of Mobility Partnerships, if relevant;
- Identify challenges or barriers that affect the attractiveness of an EU Member State for (highly) qualified third-country nationals' immigration;
- Draw conclusions on good practices and lessons learnt with regard to attracting (highly) qualified third-country nationals.

This study builds on the findings of previous EMN Studies, most notably *Satisfying Labour Demand through Migration* (2010)<sup>1</sup> which showed that existing national entry and admission procedures to EU Member States could be further facilitated for third-country nationals with relevant skills and competencies. It also complements the results from the following two studies: *The Immigration of International Students to EU (Member) States* (2012)<sup>2</sup> and *Conditions of Entry and Residence of Third-Country Highly-Skilled Workers in the EU* (2007).<sup>3</sup> Since the publication of the 2007 Study, EU Policy in this area has developed considerably. While the 2007 Study aimed to identify the conditions of entry and residence of third-country nationals during the Commission's envisaged proposal of an EU Blue Card in the Policy Plan on Migration,<sup>4</sup> the 2013 Study aims to examine the policies in place in the Member States following the evolution of EU policy and acquis in this area, after the adoption of the Blue Card and the publication of new policy documents which place even greater emphasis on attracting highly qualified third-country nationals.

The Report is divided into six sections. Following this introductory **Section 1**, **Section 2** presents an overview of EU policy and acquis and provides statistical data on attracting (highly) qualified third-country nationals. **Section 3** then examines the national policies implemented by Member

1 Available at [http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?sessionId=EDECCF80AEA39FC9C4180A22A65CBE2E?entryTitle=11\\_Satisfying LABOUR DEMAND through migration](http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?sessionId=EDECCF80AEA39FC9C4180A22A65CBE2E?entryTitle=11_Satisfying%20LABOUR%20DEMAND%20through%20migration)

2 Available at [http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?sessionId=EDECCF80AEA39FC9C4180A22A65CBE2E?entryTitle=06\\_Immigration of INTERNATIONAL STUDENTS to EU Member States](http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?sessionId=EDECCF80AEA39FC9C4180A22A65CBE2E?entryTitle=06_Immigration%20of%20INTERNATIONAL%20STUDENTS%20to%20EU%20Member%20States)

3 Available at [http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?sessionId=EDECCF80AEA39FC9C4180A22A65CBE2E?entryTitle=18\\_Conditions of entry and residence of Third Country HIGHLY-SKILLED WORKERS in the EU](http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?sessionId=EDECCF80AEA39FC9C4180A22A65CBE2E?entryTitle=18_Conditions%20of%20entry%20and%20residence%20of%20Third%20Country%20HIGHLY-SKILLED%20WORKERS%20in%20the%20EU)

4 COM(2005) 669, available at [http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005\\_0669en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0669en01.pdf).

States to attract (highly) qualified third-country nationals. **Section 4** evaluates the effectiveness of such policies and measures. **Section 5** focuses on the impact of the EU acquis. Finally, a summary of the report and its main conclusions are set out in **Section 6**.

This Synthesis Report was prepared on the basis of National Contributions from 23 EMN NCPs (**Austria, Belgium, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Malta, Poland, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom**) according to Common Specifications developed by the EMN and followed by EMN NCPs to ensure, to the extent possible, comparability.

## 2. Background

This Section provides an overview of the EU Policy and *acquis* currently in place (Section 2.1) as well as the current trends in highly qualified and qualified third-country national migration for reasons of employment in EU Member States (Section 2.2).

### 2.1 EU Policy and *Acquis*

#### 2.1.1 EU Policy

The EU's policy approach to (highly) qualified migration, as defined by the **Europe 2020 Strategy**,<sup>5</sup> underlines the need to pave the way for new economic migration in sectors in which labour and skills shortages are emerging, as well as to attract highly skilled third-country nationals in the global competition for talent.

The issue of legal migration, including labour migration, is an integral part of the EU's cooperation and dialogue with third countries in the area of migration and mobility, and a key area of the EU's external migration policy as defined through the **Global Approach to Migration and Mobility (GAMM)**. One of its policy priorities is to "better organise legal migration and foster well-managed mobility", focusing, amongst others, on (highly) qualified third-country nationals. According to the Communication from the Commission of 18 November 2011 on the GAMM<sup>6</sup>, European policy on the organisation and facilitation of legal migration and mobility within the GAMM is based on the premise of offering employers wider opportunities to find the most suitably qualified individuals for EU vacancies from the global labour market.

In addition to the development of policy to attract (highly) qualified migrants, the **EU Entrepreneurship 2020 Action Plan** was adopted in 2012 with the aim of reigniting the entrepreneurial spirit in Europe.<sup>7</sup> The plan recognised Europe's need for more entrepreneurs, with entrepreneurship considered as a powerful driver of economic growth and job creation. The Action Plan identified migrants as an important pool of potential entrepreneurs in Europe, though highlighted the obstacles some encounter when attempting to enter the EU, such as legal difficulties, limited labour markets and limited opportunities for advancement. With a view to promoting migrant entrepreneurship in the EU, the Action Plan called for the Commission to propose policy initiatives to attract this group of third-country nationals and to facilitate entrepreneurship among migrants already present in the EU as well as analyse the opportunity of proposing legislation aimed at the removal of the legal obstacles existing for the establishment of businesses and giving qualified migrant entrepreneurs a stable permit.

As the European Commission continues to develop its policy in this area, the results of this Synthesis Report provide EU policymakers with an overview of the situations existing in the Member States.

5 COM(2010) 2020 final, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF>.

6 COM(2011) 743 final

7 COM(2012) 795, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0795:FIN:en:PDF>.

## 2.1.2 EU Acquis

Throughout the recession, dedicated channels for the immigration of (highly) qualified migrants have remained widely available in a number of EU Member States. In the past 10 years most EU Member States have facilitated entry to highly skilled third-country nationals.<sup>8</sup> This tendency has also been stimulated by the implementation of Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research<sup>9</sup> (known as the 'Researcher's Directive') and, to a lesser extent given its recent transposition by Member States, Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment<sup>10</sup> (known as the 'Blue Card Directive'). This last instrument is the first direct EU response to shortages of highly qualified workers.

### The Blue Card Directive

The Blue Card Directive was adopted in 2009. The objective of this Directive is to improve the EU's ability to attract highly qualified workers from third countries, but also to limit brain drain. The legislative instrument is designed to (1) facilitate the admission of these persons by harmonising entry and residence conditions throughout the EU; (2) simplify admission procedures; and (3) improve the legal status of those already in the EU.

The Directive sets out a number of **criteria for admission** to the Member State (Article 5) which includes an obligation on third-country nationals to produce a work contract or binding offer with a salary of at least 1.5 times the average gross annual salary paid in the Member State, or 1.2 times for certain professions where there is a particular need for third-country nationals.

The Blue Card Directive provides some leniency to Member State **admission procedures**, with Member States free to decide whether the application for an EU Blue Card has to be made by the third-country national and/or by their employer (Article 10) and with Member States able to reject the application on the grounds of volumes of admission (Article 6). Member States are therefore able to determine the number of third-country nationals they admit under the Blue Card scheme.

The Directive provides Blue Card holders with the **right to be accompanied by their family members**, with Article 15(4) providing that residence permits for family members shall be granted at the latest within six months from the lodging of the application. The duration of validity of the family members' residence permits are the same as the Blue Card holders'. Family members are also entitled to access the labour market, with Member States obliged to not apply a time limit in respect to their access. These provisions are more flexible than those provided in relation to general family reunification rules, as provided in Directive 2003/86/EC.

8 Policy Highlights – Summary of the Research Findings of the IOM Independent Network of Labour Migration and Integration Experts (LINET), 2013.

9 Council Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research. In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland, the United Kingdom is not bound by the Directive.

10 Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment. In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland, these Member States are not bound by the Directive.



With regard to **access to employment**, Article 12 provides that for the first two years of legal employment, access to the labour market shall be restricted to the exercise of paid employment activities which meet the conditions for admission. After two years of legal employment, the third-country nationals may receive equal treatment with nationals as regards access to any highly qualified employment. In addition, the Directive provides for temporary unemployment (Article 13) of less than three months.

The Blue Card also provides the holder with the right for him/her and their family members to **move to a Member State** other than the first Member State for the purpose of highly qualified employment, under certain conditions, after 18 months of legal residence (Article 18).

Denmark, **Ireland** and **United Kingdom** did not participate in the adoption of the Directive and are not bound by it or subject to its application.

### *The Researcher's Directive*

The 2005 Directive introduced a special procedure governing the entry and residence of highly qualified third-country nationals coming to the EU to carry out a research project for more than three months.<sup>11</sup> The Directive provided an obligation on Member States (Article 7) to admit researchers if they comply with a number of conditions including the presentation of a hosting agreement signed with a research organisation, with Member States obliged to issue a residence permit for a period of at least one year (Article 8), renewably annually. The Directive also allowed Member States to decide to award a residence permit to the family members of a researcher, whose permit will last the same length of time as the researcher's permit.

The Directive allocated a number of **rights** to the researchers, with holders of the residence permit entitled to equal treatment with Member State nationals regarding (a) the recognition of diplomas, certificates and other professional qualifications; (b) working conditions including pay and dismissal; (c) social insurance as defined by national legislation; (d) tax concessions and (e) access to goods and services and the supply of goods and services made available to the public. Article 13 of the Directive also enabled holders of the residence permit with sufficient mobility to carry out part of their research in another Member State.

Again, Denmark and **United Kingdom** did not participate in the adoption of the Directive and are not bound by it or subject to its application. **Ireland** is, however, bound by the Directive.

### *Future developments*

In addition to the main Directives described above, the Commission's proposals for a recast of the Directives on Students and on Researchers<sup>12</sup> will have the aim of further facilitating admission, residence and intra-EU mobility of (highly) qualified workers, widening their access to the

11 By virtue of Articles 1 and 2 of the Protocols on the positions of Denmark and of the United Kingdom and Ireland, annexed to the Treaty on the European Union and the Treaty establishing the European Community, the Directive did not apply to those Member States. Article 17(1) of the Directive imposed a deadline of 12 October 2007 for the transposition of the Directive by the Member States.

12 Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service and Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research.



European labour market and at the same time contributing to achieving economic growth objectives by helping to fill skills gaps and counteract demographic trends towards an ageing of the EU population.<sup>13</sup>

Moreover, the Commission's proposal in 2010 for a Directive for intra-corporate transfer of non-EU skilled workers,<sup>14</sup> currently under negotiation within the European Parliament and the Council, will also improve the current situation in relation to highly qualified third-country nationals. The Directive, when adopted, will provide companies outside the EU with a set of common rules and requirements, facilitating the process for sending workers to the EU. EU companies will also have better and faster access to global talent to meet staffing needs for managers, specialists and graduate trainees. The EU will thus be provided with a greater pool of skilled staff which will help to secure a knowledge-based and innovative economy that will attract investments and subsequently create jobs.<sup>15</sup>

## 2.2 Current Trends in the Representation of (Highly) Qualified Third-Country Nationals in EU labour Markets

According to Eurostat's Labour Force Surveys, in EU-27 between 2008 and 2012, there has been a slight increase in the proportional employment of third-country nationals in high-skill occupations (ISCO categories 1-3) in the total employed population from 4.06% (2008) of third-country nationals employed in this kind of occupation to 4.29% in 2012,<sup>16</sup> corresponding to an estimated 1.64 million persons.<sup>17</sup> This increase was experienced by half of the 18 Member States for which reliable data was available.<sup>18</sup> As shown in Figure 1.1 below, in **Luxembourg**, this increase was particularly strong, since the proportion of third-country nationals in high-skill categories rose from 4% to 13% over the same period.<sup>19</sup> In 2012, this share reached 11% in the **United Kingdom** and 10% in **Hungary**. Also **Sweden**, the **Czech Republic**, **Denmark**, **Belgium**, **Germany** and **France** witnessed an increase in the share of third-country nationals employed in high-skill occupations. Conversely a decreasing trend was experienced by **Spain**, **Portugal** and **Greece**, where this proportion fell to 1%, 1% and 0% respectively. The situation remained relatively unchanged between 2008 and 2012 in **Austria** (3%), **Ireland** (9%), **Poland** (8%), **Finland** (6%), the **Netherlands** (6%) and **Italy** (1%).

13 Commission Staff Working Document accompanying the 4th Annual Report on Immigration and Asylum (2012), SWD(2013) 210 final.

14 COM(2010) 378 final Proposal for a Directive of the European Parliament and of the Council on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer.

15 Information available at [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/immigration/work/index\\_en.htm#3](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/immigration/work/index_en.htm#3)

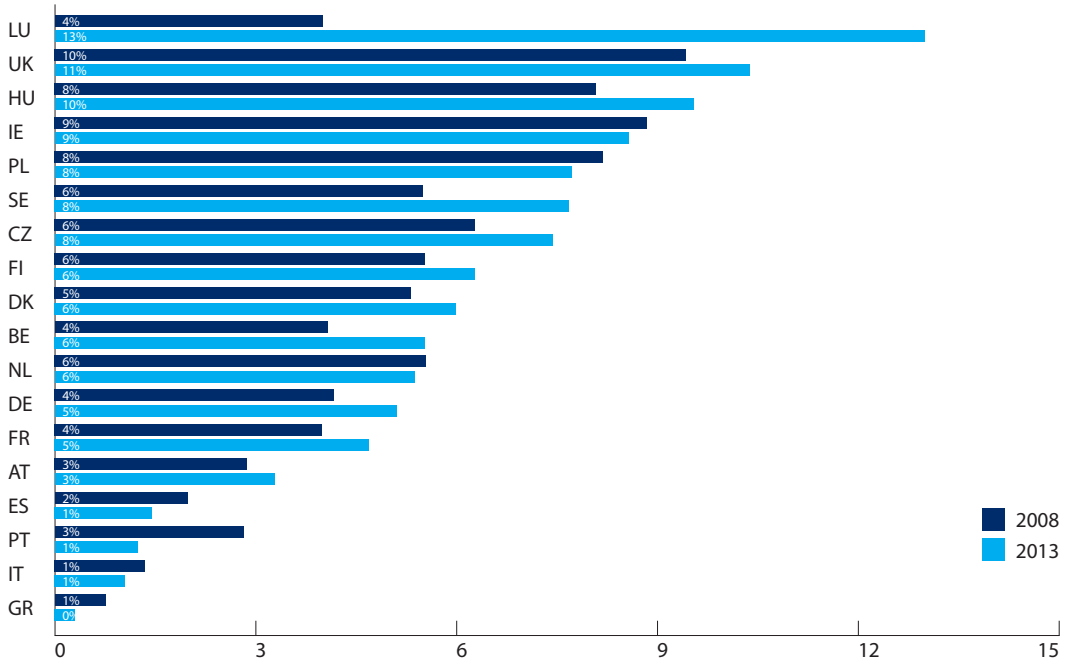
16 On the total employed population.

17 The number of all third-country nationals working in the EU in 2012 was 7,815,380. 21% of them worked within ISCO categories 1-3, accounting for 1,641,229 persons.

18 AT, BE, CZ, DE, DK, EL, ES, FI, FR, HU, IE, IT, LU, NL, PL, PT, SE, UK.

19 This data represents the Labour Force Survey. When national data is examined for Luxembourg, an increase can also be detected following the introduction of highly qualified worker status by the Law of 29 August 2008. The percentage of residence permits issued and renewed to highly qualified workers rose from 8.5% of the total for third-country national salaried residence permits in 2009 to 9.7% in 2012.

**FIGURE 1.1** Proportion of employed third-country nationals working in high-skill occupations (ISCO 1-3), selected Member States (2008-2012)<sup>20</sup>



Recent changes in the representation of third country-nationals working in high skill occupations in the EU have taken place within the context of policy measures to attract this category of migrants within selected (non-EU) OECD countries<sup>21</sup>. In the United States, for example, between 2006 and 2012, high-skilled foreign-born workers, entering the country either via the demand-driven schemes for visa (EB-2 and EB-3) or via temporary visas, continued to comprise a relatively high share of new hires (30.3%, against 28.2% of medium-skilled and 16.7% of low-skilled foreign-born workers). In Canada a new Federal Skilled Trades programme was implemented in 2013, to address serious labour shortages in some regions, and accepting applications from up to 3 000 individuals in 43 specific trades. In the same year Canada launched a new “Start-Up Visa” programme, linking immigrant entrepreneurs with private sector organisations in the country. Australia adopted more selective procedures to hire skilled migrants and recruit international students, yet at the same time it introduced a Significant Investor visa as well as a new post-study work visa. Lastly, New Zealand was witness to a decrease in the number of skilled migrants, but to an increase of 20% in the number of participants to its Study to Work programme between 2011 and 2012.<sup>22</sup> China’s National Medium- and Long-term Talent Development Plan (2010-2020), as well as setting a blueprint for creating a highly skilled national workforce over a ten year period, includes measures for favourable taxation, insurance, housing, family reunification, career development, research projects, and government awards for highly qualified workers from third countries willing to work in China. Although it is too early to measure the impact

20 ISCO categories 1-3 include occupations classified as managers, professionals and associated professionals in the International Standard Classification of Occupations (ISCO-88 or ISCO-08)

21 OECD International Migration Outlook 2013

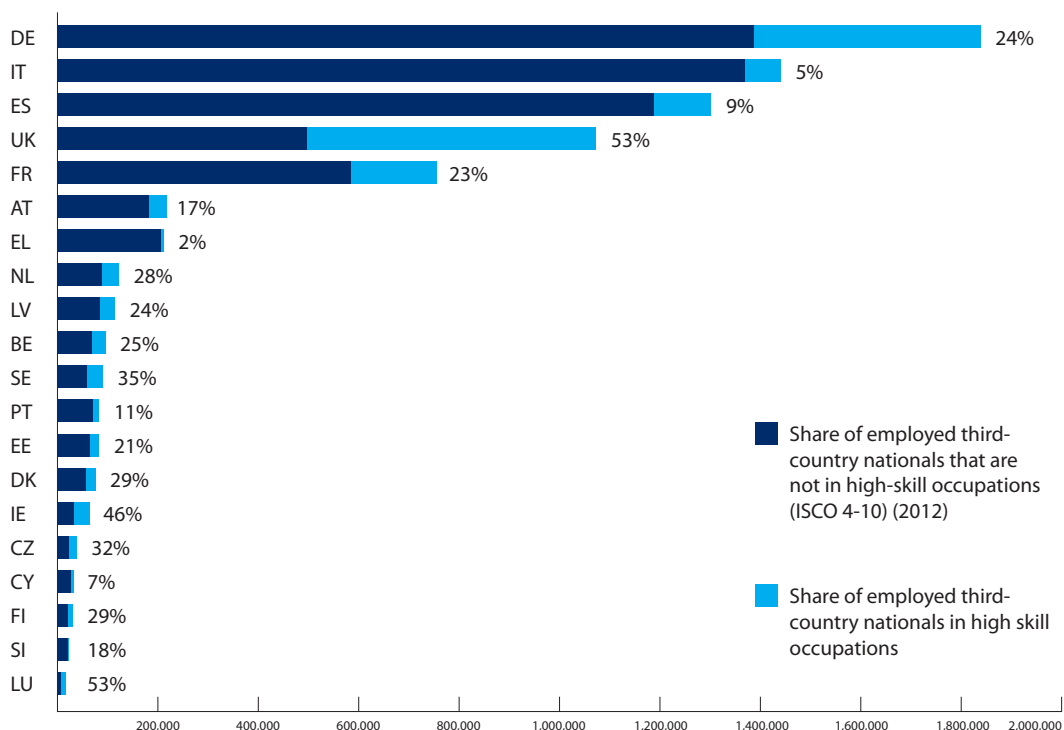
22 OECD, International Migration Outlook 2013.

of these recently implemented initiatives, the development of policies to attract highly qualified third-country nationals in non-EU countries need to be closely monitored, since these countries are, in essence, competing with the EU to attract the highly skilled, meaning that their policies can decrease the number of such third-country nationals migrating or considering to migrate to EU Member States.

In the EU in 2012, out of all employed third-country nationals, 26% had reached the highest educational attainment level (university degree and/or PhD, pertaining to ISCED categories 5-6) and 21% of them were working as either managers, professionals, technicians or associate professionals (falling into ISCO categories 1-3), accounting for up to 4.29% of all employees working in such categories.

Figure 1.1 below gives an overview of the share of third-country nationals working in high-skill occupations on the total number of employed third-country nationals.

**FIGURE 1.2** The total number of employed third-country nationals and the share employed in ISCO categories 1-3 (2012)<sup>23</sup>



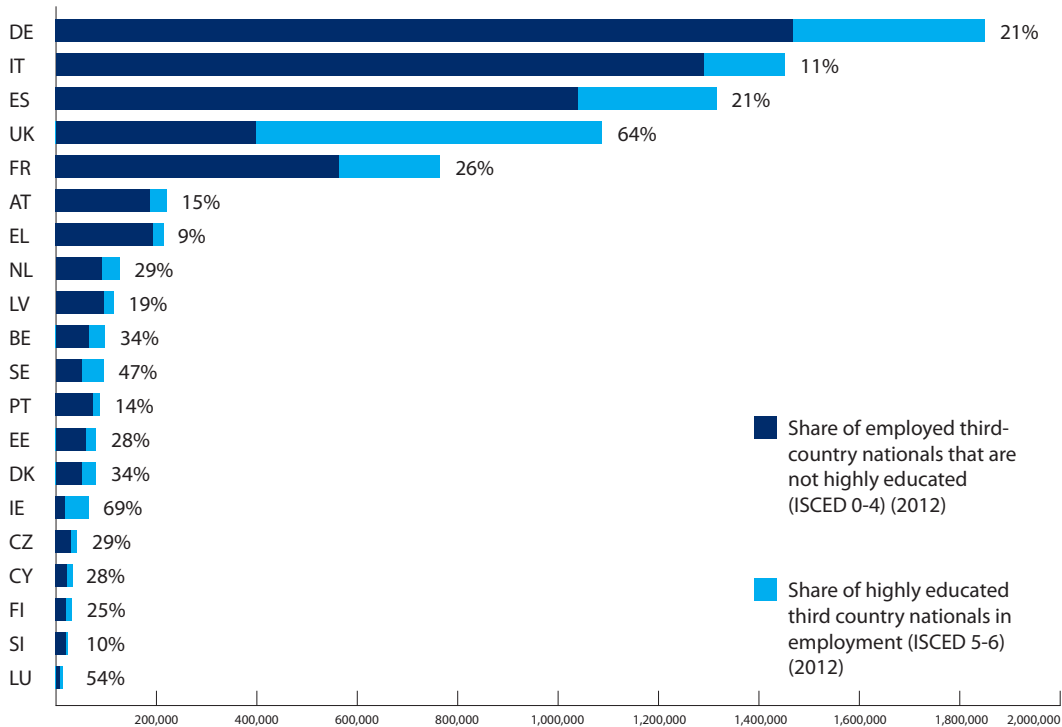
Note: No reliable data or no data was available for the outstanding EU Member States. Source: Eurostat, Labour Force Surveys

<sup>23</sup> ISCO categories 1-3 include occupations classified as managers, professionals and associated professionals in the International Standard Classification of Occupations (ISCO-88 or ISCO-08)

**Luxembourg** and the **United Kingdom** both show very high shares of employed third-country nationals working in jobs classified as high-skill occupations (53%). This share is also particularly high in **Ireland** (46%), **Sweden** (35%) and the **Czech Republic** (32%). Low shares can be noted in **Portugal, Spain, Cyprus, Italy** and **Greece**, where the proportion of third-country nationals in high-skill professions is between 11% and 2%.

Figure 1.2 below shows the share of employed third-country nationals in selected Member States in 2012 having reached the highest educational attainment level (ISCED categories 5-6), against the total number of employed third-country nationals.

**FIGURE 1.3** The total number of employed third-country nationals and the share having reached the highest educational attainment level (ISCED 5-6) (2012)<sup>24</sup>



Note: No reliable data or no data was available for the outstanding EU Member States. Source: Eurostat, Labour Force Surveys

The relative share of highly educated third-country national workers amongst all third-country national employees was particularly high in **Ireland** (69%), the **United Kingdom** (64%), **Luxembourg** (54%) and **Sweden** (47%). In some Member States (**Belgium, Cyprus, Ireland, Spain, Sweden, United Kingdom**), the share of highly educated migrants is significantly (+10 percentage points) higher than the share of migrants in high-skill occupations, which confirms the tendency of third-country nationals to be overqualified for the jobs they work in.<sup>25</sup>

<sup>24</sup> ISCED categories 5-6 include educational programmes classified to the first and second level of tertiary education in the International Standard Classification of Education (ISCED 1997)

<sup>25</sup> See also the report "Using EU Indicators of Immigrant Integration", March 2013, prepared at the request of the European Commission by the European Services Network (ESN) and the Migration Policy Group (MPG).

## 3. National Policies including Concepts and Measures

This section provides a full overview of the current Member State situations. An overview of the different concepts used with regard to qualified and highly qualified third-country nationals (Section 3.1) is first provided, with the national policies in place (Section 3.2) then presented. The varying approaches and measures used by the Member States are then outlined (Section 3.3) as well as the associated public debates (Section 3.4). The section then presents the agreements in place with third countries (Section 3.5) and concludes with the issues arising in relation to brain drain and brain circulation (Section 3.6).

### 3.1 Definitions and Concepts

The understanding of who is a highly qualified and qualified third-country national varies in the Member States, with different definitions and concepts existing. This can be explained by the fact that often these depend on national labour market demands and other national criteria. Member States therefore do not have concrete definitions of these individuals but rather seem to mix definitions with concepts of whom these individuals are and with specific academic, salary and professional requirements set for these individuals.

The table in Annex 3 provides a full overview of the national concepts existing in the Member States.

#### *International Standards*

International Standard Qualifications exist for education and occupation in order to comparatively identify levels of qualification and occupation.

The Member States base many of their requirements on the ILO's International Standard Classification of Occupations (ISCO), with highly qualified and qualified relating to occupations which include managers, professionals, and associate professionals (Levels 1-3).

With regard to education, UNESCO's International Standard Classification of Education (ISCED) provides an indication of the education requirements for highly qualified individuals. For definitions based on the ISCO, "highly qualified" as well as "qualified" these will, in most cases, relate to those in the first and second stages of tertiary education (Levels 5 and 6) as well as some post-secondary education (Level 4). A full overview of these standards is provided in Annex 1.

The EU Acquis has also influenced the concepts used in the Member States, by setting out common definitions for both “highly qualified employment” and “higher professional qualifications”, especially when Member States had no prior concepts and definitions. Article 2 of the Blue Card Directive provides that “‘highly qualified employment’ means the employment of a person who:

- In the Member State concerned, is protected as an employee under national employment law and/or in accordance with national practice, irrespective of the legal relationship, for the purpose of exercising genuine and effective work for, or under the direction of someone else,
- Is paid, and,
- Has the required adequate and specific competence, as proven by higher professional qualifications.”

Article 2(g) sets out the requirements in relation to ‘higher professional qualifications’. These are qualifications:

- Attested by evidence of higher education qualifications or,
- By way of derogation, when provided for by national law, attested by at least five years of professional experience of a level comparable to higher education qualifications and which is relevant in the profession or sector specified in the work contract or binding job offer.

## Categorisation of Member States

Member States can therefore be classified into the following categories:

- Member States which only apply the concept from the Blue Card Directive (**Greece, Hungary, Italy, Luxembourg,<sup>26</sup> Poland, Slovak Republic, Lithuania**);
- Member States which have a number of concepts in place (**Austria, Belgium, Czech Republic, France, Germany, Ireland, Latvia, Netherlands, Slovenia, United Kingdom**);
- Member States which are in the process of developing and adopting concepts (**Estonia, Spain**);
- Member States which did not report specific definitions and concepts (**Cyprus, Malta, Sweden**).

A number of concepts are in place in a number of Member States due to the different migration schemes and residence permits available to third-country nationals when wishing to migrate for (highly) qualified work. The different permits in place also have different requirements associated with them. For example, in the **Czech Republic**, those highly qualified workers applying for a Blue Card are required to fulfil all conditions set out in the Directive while highly qualified

<sup>26</sup> In **Luxembourg**, a partial transposition of the concepts included in the Blue Card Directive was introduced into national legislation prior to adoption of the Directive at EU level.

workers applying for a Green Card Type A/Key personnel need to fulfil different requirements, with more emphasis in this case placed on the employer's needs.<sup>27</sup>

The development and detail of concepts relating to (highly) qualified workers in the Member States can be associated with the level of maturity of national policy. When examining the different concepts existing in Member States such as **Austria, Germany** and the **United Kingdom**, where policies for attracting highly qualified third-country nationals have been in place for already a few years, it is clear that these concepts, and their associated requirements, are more elaborate than in Member States which have developed policy in this area more recently and thus have adopted the definitions provided in the EU Acquis. National policies are further discussed in Section 3.2 below. The link between concepts and policies is also clear in **Sweden**: since the national policy for labour migration does not specifically target highly-skilled migrants but provides an employer-driven system for recruitment which is open to all skill levels, there is no legal definition in national legislation of what constitutes a (highly) qualified worker, nor are there any salary thresholds or quotas applied.

With regard to the criteria underpinning such definitions in the Member States, these relate to the following:

- Education (**Austria, Belgium, Czech Republic, Germany, Finland, Italy, Lithuania, Luxembourg, Netherlands, Slovenia, Slovak Republic, Spain, United Kingdom**);
- Salary (**Austria, Belgium, Czech Republic, Estonia, Germany, Finland, France, Ireland, Italy, Lithuania, Luxembourg, Netherlands, Poland, Slovak Republic, Spain, United Kingdom**);
- Professional Experience (**Austria, Germany, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Slovak Republic, Spain, United Kingdom**).

The most frequently used criteria are those of education and salary.

Concerning the ISCED levels used by the Member States, it is clear that where there is a distinction in Member State concepts between qualified and highly qualified third-country nationals, different levels of ISCED levels are required. For example, in **Austria**, 'very highly qualified workers' require ISCED Levels 5 or 6 while 'skilled workers in shortage occupations' can be eligible, regardless of any higher education qualification, as long as they have completed professional training in a relevant shortage occupation. Moreover, in the **Czech Republic**, ISCED Levels 5 and 6 are required to obtain a Type A Green Card for highly qualified third-country nationals, while ISCED Level 3 is needed to obtain a Type B Green Card as a qualified third-country national. Different ISCED levels are also applied in **Lithuania**, depending on whether the professions are regulated or non-regulated.

With regard to professional occupations, the ISCO Groups differ in some Member States. While the Major Groups 1 to 3 are used in all Member States citing these standards (or their equivalent) at national level (**Austria, Czech Republic, Germany, Italy**), other major groups are also considered within the concept of (highly) qualified third-country nationals. For example, in **Austria**,

<sup>27</sup> The Green Card is the national residence permit. It is a dual document. There are three types of Green Cards, the others covering for workers in general.

‘skilled workers in shortage occupations’ can also fall under ISCO Major Groups 4-8. Moreover, in the **Czech Republic**, individuals falling under ISCO Major Groups 1-5 can be considered as highly qualified and thus eligible for a Type A Green Card. In **Luxembourg**, requirements are stricter, with highly qualified third-country nationals only coming from ISCO Major Groups 1 and 2.

Where salary requirements are applied by the Member States, the manner in which these are calculated varies. These include the following:

- Application of a minimum salary requirement (Austria<sup>28</sup>, Czech Republic, Finland, Ireland, Luxembourg, Netherlands, Poland);
- Application of a coefficient of the annual average salary (**Belgium, Estonia, Lithuania, Spain**), minimum salary (**France, Italy**) or threshold for the general pension scheme (**Germany**).

In addition to the salary requirements imposed on third-country nationals, **Austria** (for the category of ‘other key workers’) and the **Netherlands** vary the salary threshold depending on the age of the applicant, whether they are below or over 30 years of age.

The salary requirements existing in the Member State vary from a monthly salary which in the first quarter of 2013 was €1 293 (**Lithuania**)<sup>29</sup> to a minimum annual salary of €67.842 (**Luxembourg**).

For the Blue Card, whilst Member States are in conformity with the provisions, either applying a coefficient of 1.5 times the minimum salary or 1.2 times for certain professions with specific shortages, it is interesting to observe the difference in salary scales, depending on the Member State in question. These range from €46 400 (**Germany**) and €49 995 (**Belgium**) to €56 004 (**Finland**) and €60 952 (**Netherlands**).

Many Member States (**Austria, Czech Republic, France, Ireland, Luxembourg, Netherlands, United Kingdom**) have policies that in some way differentiate between qualified and highly qualified third-country nationals and can target the workers needed most. In **France**, whereas highly qualified third-country nationals benefit from several targeted measures, qualified third-country nationals are often part of broader provisions aimed at all third-country national economic migrants.

### 3.2 National Policies

In addition to EU policy which has identified the need to attract highly qualified third-country nationals in the global competition for talent, national policy has also developed over recent years in order to ensure that the (highly) qualified vacancies are filled in their labour market. Most of the Member States have policies and strategies in place for attracting (highly) qualified third-country nationals. While the majority of the Member States included provisions targeting this group in wider migration policies (**Belgium, Estonia, Finland, Greece, Hungary, Lithuania, Luxembourg, Slovak Republic, Slovenia, Sweden**), some have developed separate policies targeted at (highly) qualified migrants (**Austria, Czech Republic, Germany, France, Ireland, Neth-**

<sup>28</sup> This requirement concerns not all categories of (highly) qualified third country nationals.

<sup>29</sup> The salary requirement applied in Lithuania is 2 times the average monthly salary applied.



**erlands, Spain, United Kingdom**). Where such specific policies were established, in the majority of cases, these combined different categories of highly qualified and qualified third country nationals.

Some of the Member States having **specific policies** in place are amongst those attracting higher shares of (highly) qualified workers, for example in **Ireland** and the **United Kingdom**, where indeed the proportion of third-country nationals falling under the ISCED 5-6 classification was 69% and 64% respectively in 2012 and the proportion of third-country nationals falling under the ISCO 1-3 classification 46% and 53% respectively. High shares have been also noted amongst Member States which included provisions targeting (highly) qualified workers in wider migration policies. For example, in **Sweden**, the proportion of third country nationals falling under ISCED 5-6 was 47% while those falling under ISCO 1-3 amounted to 35% in 2012. In **Luxembourg** the proportion of third country nationals falling under the ISCED 5-6 was 54% while the proportion of third country nationals falling under ISCO 1-3 amounted to 53%. Section 4 below provides more information on the effectiveness of these policies.

**Cyprus, Hungary, Italy, Latvia, Malta** and **Poland** did not establish any national policies or provisions for attracting (highly) qualified third-country nationals. While, overall, these Member States do not seem to attract higher shares of (highly) qualified workers, there is an exception in **Cyprus** where the proportion of third-country nationals falling under the ISCED 5-6 was 28% in 2012.

Some similarities in the rationale for establishing national policies and strategies aimed to attract (highly) qualified third-country nationals and in their objectives can be noted. The most commonly identified ones are:

- Create more jobs and growth, strengthen the competitiveness of Member States' economy and encourage foreign investments;
- Contribute to the establishment of research and excellence centres;
- Make Member States an attractive destination country;
- Help employers and companies to find the specialised workforce missing from labour market;
- Fill in shortages and existing labour market needs;
- Address potential future labour market needs.

### *Focus on groups of individuals*

As part of their national policy to attract (highly) qualified third-country nationals, some Member States, have placed a specific focus on certain groups of individuals as well as for individuals working in precise areas of occupation. The most common categories of third-country nationals and occupations mentioned in the national policies/strategies are:

- Self-employed workers (**Austria, Belgium , Germany, Ireland, Luxembourg, Netherlands, Slovak Republic, Spain, Sweden**)
- Executive staff and managerial employees (**Austria, Belgium, Estonia, Germany, Greece, Italy, Lithuania, Spain**)

- Students (**Belgium, Germany, Estonia, Finland, France, Luxembourg, Ireland, Netherlands, Lithuania, Poland, Slovenia, Slovak Republic, Spain**)
- Researchers and scientists (**Belgium, Germany, Estonia, France, Ireland, Luxembourg, Lithuania, Netherlands, Poland, Slovak Republic, Spain, Sweden**)
- Persons employed by an international corporation or group that are involved in a personnel exchange or secondment (**Germany, France, Greece, Italy, Luxembourg, Spain, Sweden**)
- Investors (**Estonia, Germany, Hungary, Ireland, Luxembourg<sup>30</sup>, Spain, United Kingdom**)
- Entrepreneurs (**Estonia, Germany, Ireland, Slovak Republic, Spain, United Kingdom**); and
- Graduates (**Austria**);
- 'Exceptionally talented individuals' (**United Kingdom**).

### *Focus on occupations*

In some cases, the focus on attracting certain categories of third-country national professionals and filling particular occupations relates to specific national labour market needs and shortages. Austria, France, Germany, Hungary, Ireland, Lithuania, Slovenia and the United Kingdom have established a list of occupations subject to shortages. The most affected sectors are:

- Information and Communications Technology (**France, Germany, Austria, Ireland, Italy, Spain, United Kingdom**);
- Healthcare (**Germany, Austria, Hungary, Ireland, Italy, Poland, Slovenia, Spain, United Kingdom**);
- Sport (including athletes and coaches) (**Greece, Italy, Netherlands, Poland, United Kingdom**);
- Academia (**Italy, Lithuania, Poland, Spain**);
- Art (**Greece, Italy, Netherlands, Spain**)
- Financial services (**France, Ireland, Malta**), aviation services (**Malta**);
- Engineering (**Austria, Germany, Spain**);
- Maritime (**Italy**);
- Innovation and creativity (**Malta, Spain**);
- Transport (**Lithuania**)

In addition to sectors, niche skills and specific mixes of skills, for example languages/business experience, are in demand. This is the case, for example, in **Ireland**.

In other cases, Member States specifically seek to attract third-country investors and entrepreneurs in order to help boost the national economy.

<sup>30</sup> No specific residence permit exists in Luxembourg for investors; in such cases a residence permit may be obtained for private reasons (autonomous) or as self-employed.

Most commonly, the admission and entry of the categories of (highly) qualified third-country nationals mentioned above is facilitated, for example, through fast-track procedures, exemptions from general immigration requirements and labour market tests and other incentives as further elaborated in section 3.3.

### *Immigration quotas*

In **Estonia**, **Hungary** and the **United Kingdom**, (highly) qualified third-country nationals fall under an immigration quota. These quotas set a limit to the number of third-country nationals able to enter the Member State. In **Estonia**, EU Blue card applicants are subject to the general immigration quota. As of September 2013, however, and international students who finish their studies in **Estonia** wishing to remain for work, and their family members, will be exempt from such quota. Similarly, in **Hungary**, the Minister for Labour Affairs sets the maximum number of work permits to be provided annually. This includes the number of third-country nationals employed on the basis of an EU Blue Card. In the **United Kingdom**, some of the immigration routes are subject to an annual limit. This limit is set at 20,700 for Tier 2 General Applicants, at 2,000 for Tier 1 Graduate Entrepreneurs and at 1,000 for Tier 1 Exceptional Talent. Finally, in **France**, provisions have been included, within bilateral agreements signed with certain third countries on the concerted management of migratory flow, in relation to the "skills and talents" residence permit, specifying the annual quota.

In **Austria**, a quota system regulated the immigration of (highly) qualified workers prior to the introduction of the Red-White-Red Card. By replacing the quota system, which placed limits on the numbers of labour migrants, Austria in particular focused on becoming a more attractive destination country for (highly) qualified third-country nationals in need.

The information available suggests that, in the majority of the cases where quotas were established, the latter were not exhausted. This happened in **Estonia**, where in 2012, the quota was used up to 58%. Similarly, quotas have not been exhausted in **Hungary** and the **United Kingdom**.

## 3.3 Approaches and Measures

This Section provides an overview of the approaches and measures taken by Member States. The overall approach to admission of (highly) qualified third-country nationals (Section 3.3.1) is firstly provided, with an overview then presented relating to the specific measures to attract (highly) qualified third-country nationals and facilitate their integration (Section 3.3.2) as well as the specific measures in place in relation to entrepreneurs and investors (Section 3.3.3).

### 3.3.1 Overall Approach to admission of (highly) qualified third-country nationals

Five Member States have points-based systems in place (**Austria**, **Netherlands**, **Slovenia**, **United Kingdom**). In **Slovenia** this is still to be made operational and in the **Netherlands**, the system is only used for specific (and small) groups of migrants. The **United Kingdom** was the first Member State to introduce a system, in 2008, to better match economic migrants (of all types and skills levels) with national economic and labour market interests,<sup>31</sup> allocating points to specific qualifications, professional experience and other features of third-country applicants, followed by **Austria** and **Slovenia**. The systems are both supply and demand driven, in the sense that

31 Other types of migrants are also included for whom other criteria apply.

they focus both on addressing labour shortages, often requiring applicants to present a job offer and/or to be a specialist in a certain occupation or sector, and on identifying third-country nationals which can add a high value to the Member State. In **Czech Republic**, a points-based system was applied in the project 'Selection of Qualified Foreign Workers' as a condition for entry to the project.

The approach to immigration of highly-qualified workers is employer-led<sup>32</sup> in 16 Member States (**Belgium, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Slovak Republic, Spain, Sweden, United Kingdom**)<sup>33</sup>. In 14 Member States (**Belgium, Estonia, Finland, France, Germany, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Spain, Sweden, United Kingdom**), employer-led means that employers are expected to 'preselect' the third-country national they wish to hire and, in most cases, have to prove that both they and the third-country national are meeting certain conditions. The employers often have to prove that they could not find any national / EU citizen to fill the position, apply another type of labour market test and/or guarantee a certain wage level. For some occupations, exemptions apply. Only in **Sweden**, are employers able to hire third-country nationals freely and only need to offer conditions which apply to the entire sector. The Swedish system does not foresee any quantitative or qualitative limits to the immigration of workers, with the general approach being that labour immigration should be driven by the recruitment needs of employers, regardless of whether they need highly qualified, qualified, low-skilled or unskilled workers.

Other approaches applied in Member States include inviting employers and employer organisations to actively contribute to exercises to forecast labour demand and to identify specific occupations and/or sectors in which demand is exceeding the national supply (**Greece, Italy**) and in **United Kingdom**, the occupational shortage list is consulted prior to changes being implemented. In Czech Republic, vacancies for highly-qualified workers are made by employers, although the employer does not in general cases select the specific employee. With these as a basis, Member States can thus set quotas, develop immigration guidelines and/or determine in which sectors or for which professions exemptions may apply.

### 3.3.2 Specific measures to attract (highly) qualified third-country nationals and facilitate their integration

Member States have deployed a wide range of measures to implement their policies aimed at attracting (highly) qualified migrants and positively influencing their migration decision, as well as helping them to successfully integrate. Some have multiple measures in place, usually combining information provision with other activities and advantages, whereas others have opted to focus on fewer and more specific ones.

Members States are promoting themselves as destination countries for highly qualified workers and are involving relevant organisations, through the following measures (in order of significance):

- Fast-tracking of procedures (**Austria, Czech Republic, Ireland, Germany, Estonia, France, Greece, Italy, Lithuania, Luxembourg, Netherlands, Poland, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom**) for permits and visas;

<sup>32</sup> Subject to the Union preference principle.

<sup>33</sup> Germany and Netherlands thus combine both approaches.

- Unrestricted access to the labour market (**Austria, Belgium, Germany, France, Hungary, Italy, Luxembourg, Slovak Republic, Spain, Sweden, United Kingdom**), although this is in most cases limited to a few sectors and countries of origin, or is allowed only after a certain period of time;
- Provision of information including information campaigns, mostly in the form of websites and portals, but also through one-stop-shops and expatriate centres (**Austria, Czech Republic, Germany, France, Hungary, Luxembourg, Netherlands, Spain, Sweden, United Kingdom**);
- Employer sponsorship and/or involvement in the migration process (**Luxembourg, Slovak Republic** (to a limited extent), **Spain, Sweden, United Kingdom**) specifically and to some extent all Member States which have adopted an employer-led approach);
- Attendance at recruitment fairs abroad (**Belgium**);
- Cooperation with institutions /organisations in third countries (**Italy**);
- Use of networks such as the Research Marketing Network which aims to attract \$junior scientists considered to be highly qualified workers (**Germany**);
- Reduction of visa fees for highly qualified workers, for example, in Tier 1 exceptionally talented applicants (**United Kingdom**).

Member States have also developed several measures to positively influence the immigration decision of third-country nationals, by offering improved rights, benefits and incentives. While many of these measures have been adopted following the entry into force of the Blue Card Directive (e.g. **Austria**), some measures were already in place prior to its implementation or go beyond the provisions set out in the EU acquis.

For example, as set out in Section 2 above, the EU Blue Card Directive (Article 15(4)) provides that family members shall be able to accompany an EU Blue Card Holder at the latest within six months from the date on which the application was lodged for family reunification. However, many Member States (**Austria, Belgium, Czech Republic, Germany, Estonia, France, Greece, Lithuania, Italy, Luxembourg, Netherlands, Slovak Republic, Sweden**) grant family members of highly qualified workers the right to directly accompany them to the Member State, rather than within a six-month period from application, thus making their policy more attractive. This approach is also adopted in **Ireland** in respect of the Irish Green Card.

As provided for in the 2009 Blue Card Directive, the duration of the residence title granted to family members is explicitly linked to the duration of the permit of the main card holder. Some Member States again go beyond the provisions of the Directive, allowing family members to benefit from unrestricted access to the labour market (**Austria, Belgium, France** (for certain categories), **Germany, Lithuania, Italy, Netherlands, Slovenia, Slovak Republic** (where no work permit is required), **Sweden**) or access under similar conditions as the main card holder (**Germany** for some categories).

Other advantages are also offered to family members, for example exemptions from proof of language skills (**Austria** for family members of 'very highly qualified' workers, and **Germany** for spouses of highly qualified workers) and from having to sign integration contracts (**France** for certain categories). These provisions also go beyond those applied in the Directive.

**Belgium, Finland, France, Ireland, Luxembourg, Malta, Netherlands** and **Sweden** offer tax incentives, to both employers and (highly) qualified employees. These range from granting specific ex-patriate statuses which offer tax-free allowances and tax exemptions (**Belgium, France**); to general income tax reductions (**Ireland, Malta, Sweden**); and allowing employers to provide tax-free benefits to cover the costs related to the move and settlement of the third-country national in another country (**Luxembourg, Netherlands**). In some cases, tax incentives are restricted to certain categories of (highly) qualified third-country nationals, for example the small group of very senior managers (**Finland**), those employed temporarily (**Luxembourg, Netherlands**) and/or those in occupations of special interest to the Member State (**Luxembourg, Malta**). In the case of **Ireland**, the tax incentives are specifically aimed at encouraging companies to seek out talent across the borders.

Specific arrangements with regard to social security are being offered in **Belgium**, as part of agreements with over 20 third countries (and at least two new agreements are about to be ratified). Under these agreements, temporarily seconded (highly) qualified third-country nationals can continue paying social security in their home countries. In addition, long-term benefits built up in Belgium can, under certain conditions and to a certain extent, be exported to the home country. The Belgian insurance periods are also taken into account when determining the entitlement and calculating the benefits in the home country. The **Netherlands** signed a social security treaty with India in 2009, which exempts (highly) qualified employees who are seconded from one of these countries to work in the other country for a maximum period of 60 months from paying social security payments in the guest country. Those who are not seconded but who have rather migrated to the **Netherlands** to live more permanently only need to pay in the guest country, thus avoiding that double premiums can be charged.

Other incentives applied include the exemption from having to obtain formal recognition of higher education degrees in **Austria**, as well as other support mechanism to facilitate the recognition procedures for other forms of education and professional experience. The **Netherlands** facilitates start-up procedures for self-employed from the US and Japan in the Netherlands. Self-employed persons from these countries are not tested under the points system as to whether they actually serve in the interests of the Dutch economy.

General provisions relating to integration applied by Member States may also be aimed at the integration of (highly) qualified third-country nationals. The following have been identified by Member States as particularly relevant for (highly) qualified migrants:

- Measures to improve language proficiency, including courses (**Austria, Estonia, Italy, Luxembourg**) and guidelines (**Italy**). In most cases (highly) qualified third-country nationals can make use of the same language training opportunities offered to all migrants.
- Provision of information and civil orientation, mainly provided through websites (**Austria, Belgium, Italy**), courses (**Luxembourg**) and other documentation such as handbooks (**United Kingdom**). In a few cases, these have a specific focus, such as in **Austria** and **Germany** where information is provided on how to get qualifications and experience recognised. Again in most cases the services are offered indiscriminately to all migrants.
- Other, including participation in general integration programmes (**Italy**).

**Estonia** has not applied specific measures for highly qualified migrants, but plans to do so from 2013 in recognition of identified needs.

### 3.3.3 Specific measures to attract entrepreneurs and investors

According to the LFS, an estimated 11% of all working third-country nationals were self-employed<sup>34</sup> in 2012, with peaks of 36% in the **Czech Republic**, followed by the **Netherlands** (16%) and **Italy** and the **United Kingdom** (both 13%).

Several Member States have, as part of their policies to attract (highly) qualified migrants, developed specific measures for self-employed, entrepreneurs and investors (**Austria, Belgium, Germany, Estonia, Greece, Hungary, Ireland, Luxembourg, Netherlands, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom**) which define the conditions and criteria for admission and grant, in certain cases, specific benefits and exemptions to attract these groups, providing the specific criteria can be met. The focus on attracting entrepreneurs and investors appears to be increasing in the EU. For example, new targeted policies were introduced in January 2012 aimed at attracting non-EEA migrant entrepreneurs and investors to **Ireland**. The **United Kingdom** also, in 2011, introduced measures to attract investors and entrepreneurs, including accelerated procedures, funding thresholds and allowable absences.

The conditions applying to self-employed and entrepreneurs primarily relate to the expected economic potential of the activity (**Austria, Belgium, Germany, Greece, Ireland, Netherlands, Spain**), so that the Member State can assess the added value the third-country national will bring to the national economy. **Austria**, for example, requires self-employed key workers to pursue a gainful activity which supports overall economic growth, which is assessed by the regional public employment service. Similarly, **Belgium** requires applicants to prove the potential added value of their activity, which can consist of the creation of new jobs, a positive economic impact on enterprises based in Belgium, the innovation or specialised nature of the activity, or the social, cultural, artistic or sport-related benefit of the activity. The added value is assessed by the Federal Department for SMEs.

Some Member States require self-employed third-country nationals and /or entrepreneurs to provide proof of secured funding (**Estonia, Germany, Greece, Luxembourg, Ireland, United Kingdom**). **Greece** has set a minimum amount of 60 000 euro, **Estonia** 16 000 or 65 000 euro, **Ireland** 75 000 euro and the **United Kingdom** has set a minimum of 200 000 GBP (about 232 600 euro) for individuals wanting to invest by setting up or taking over and being actively involved, in running a business, or 50 000 GBP (about 58 000 euro) if it is obtained from a specified source. In addition, applicant entrepreneurs need to prove access to a monthly minimum maintenance fund of 3 100 GBP (about 3 600 euro). On the other hand, graduates who wish to become "Graduate Entrepreneurs", through the new Global Graduate Entrepreneurs Programme, launched in June 2013 by UK Trade & Investment, only have to prove that they have access to monthly minimum maintenance funds of 1,800 GBP (about 2 100 euro). In **Luxembourg**, a specific value is not prescribed, however the applicant must provide proof of sufficient resources to practice the activity.

For investors from third countries, the main admission criterion in the Member States (**Estonia, Greece, Hungary, Ireland, Spain, United Kingdom**) relates to the sum to be invested. The sums

<sup>34</sup> It is noted that this is restricted to self-employed and may therefore not include all third-country entrepreneurs. The statistics are also not restricted to highly-qualified third-country national.



vary depending on the Member State: 65 000 euro (**Estonia**), 250,000 euro (**Hungary**), 300,000 euro (**Greece**), 400,000 to 1 million euro (**Ireland**), 500 million to 2 million euro (**Spain**) and 1 million GBP in the **United Kingdom**.

Only few Member States require proof of qualifications (**Slovenia** and the **United Kingdom** as part of the Graduate Entrepreneur route) from entrepreneurs and investors. Member States also grant certain benefits and exemptions, in addition to those applied for (highly) qualified third-country nationals, as described in Section 3.3.2 above. For example, **Greece**, the **Slovak Republic** and **United Kingdom** apply fast-track procedures for certain categories of entrepreneurs and investors. In **Italy** and the **United Kingdom**, quotas on third-country migrants do not apply to entrepreneurs and investors, although in United Kingdom, quotas are applied to graduate entrepreneurs and 'exceptional talent'. Third-country national entrepreneurs are also exempted from requirements in relation to language skills (**Germany**, **United Kingdom**).

The points/criteria-led-system is not applied to self-employed workers in **Austria**, and in the **Netherlands**, testing is not applied to specific categories of self-employed third-country nationals, including long-term residents, Turkish nationals (from 2011) and nationals from Japan and the USA (from 2010). In addition, such nationals from Japan and the USA do not need to prove their economic potential in order to be admitted. In **Ireland**, the Start-Up Entrepreneur Programme facilitates the entry of certain investors into the territory, by not setting any initial job creation targets for these individuals, by not requiring them to employ EU/EEA nationals and by lowering the amount of start-up capital required.

### 3.4 Public Debate

In most of the Member States, national immigration policies and policies specifically aimed to attract (highly) qualified third-country nationals have been subject to public debate. There are several reasons explaining why such debates were initiated in the Member States. The most common reason is linked to the economic crisis and rising unemployment amongst citizens (**Finland**, **Ireland**, **Italy**, **Lithuania**, **Spain**), a negative attitude of citizens towards immigrants (**Latvia**), as well as shortcomings in existing legislation (**Czech Republic**, **Estonia** and **France**) were also cited as reasons initiating public debates.

In some cases, negative attitude towards immigration of (highly) qualified third-country nationals led to criticisms following the introduction of policies, aiming to attract such individuals. In **Austria**, for example, the Trade Union Federation and the Austrian Chamber of Labour were during the development of the new policy rather sceptic towards the introduction of the "Red-White-Red card" as they questioned the increased demand for immigration in Austria and underlined the danger of wage and social dumping (i.e. the practice of using cheaper labour) that was linked to its introduction. Similarly, in **Sweden**, current rules for labour immigration have been criticized by opposition parties for contributing to wage-dumping and for making it easier for employers to recruit foreign workers instead of investing into the further education and qualification of persons already living in Sweden.

On the other hand, in **France**, following the publication of a Circular on conditions applicable to international students relative to their entry into the labour market after completion of their studies in 2011, significant debates took place on the restrictive conditions applicable to international students and the consequent negative impact on the attractiveness of France on



an international scale. In the framework of preliminary consultations to the debate on labour migration and student mobility which took place in Parliament between April and June 2013, the issues of reviewing the concept of first work experience and the length of the temporary residence authorisation were raised. In **Czech Republic**, the green card system used for issuing permits to (highly) qualified third-country nationals was criticised and, more specifically, shortcomings such as the time-consuming and administratively onerous requirements of the process for third-country nationals prior to their employment.

In some instances, public authorities organised public consultations on certain topics. Prior to adopting legislation or policies related to (highly) qualified third-country nationals, for example, some Member States organised wide-ranging consultations both at institutional as well as with social partners (**Estonia, Slovenia, United Kingdom**). **Greece** also organised a public consultation before the adoption of the national legislation transposing the EU Blue Card Directive.

**Estonia** and **France** indicated that, following public debate, modifications were made to legislative texts. In **Estonia**, as a result of changes proposed as part of the stakeholder consultation, a simplified residence application procedure was introduced for (highly) qualified third-country nationals. In **France**, after the presidential elections of 2012, the Circular of 31 May 2011 was repealed and replaced by a new text introducing more favourable rules for international students intending to stay in the country after their studies, in response to public debate on the issue.

### 3.5 Agreements with Third Countries

Member States have entered into many agreements with third countries which aim to facilitate labour migration, but only a very limited number of these agreements focus specifically on attracting (highly) qualified third-country nationals to their territory. A full overview of the agreements in place with third countries relating to labour migration was presented in the 2010 Study on *Satisfying Labour Demand through Migration* as well as the 2012 Study on the *Immigration of International Students to the EU*. Annex 4 below sets out Member States' agreements with third countries in relation to attracting (highly) qualified third-country nationals.

**France, Netherlands, Poland, Slovenia** and **Spain** have entered into agreements with third countries which have a specific focus on attracting (highly) qualified third-country nationals to their territory.

The agreements entered into by **France, Slovenia, Poland** and **Spain** aim to facilitate the entry of third-country nationals into the territory by easing the conditions relating to the issuance of work permits.

**Slovenia** recently entered into an agreement with Bosnia-Herzegovina which regulates the employment of nationals of the latter. The agreement includes provisions which are relevant for the purposes of attracting (highly) qualified third-country nationals as regards conditions for the issuance and renewal of their work permits. The agreement also focused on circular migration and the avoidance of brain drain, as described in the sub-section below.

In **France**, agreements have been entered into with a number of third countries (Senegal, Gabon, Congo, Benin, Tunisia, Mauritius, Cape Verde, Burkina Faso and Cameroon) which list occupations from third countries which are not subject to the labour market test. These include

qualified jobs in the IT and finance sector. This is also the case in **Poland** where third-country nationals from Belarus, Georgia, Moldova and the Russian Federation are allowed to work on the territory without being subject to the labour market test.

**Poland** has entered into agreements which place geographical priority on attracting workers from certain third countries.

The limited number of specific agreements currently in place could be explained by the strong interest of Member States to attract the most relevant and talented (highly) qualified third-country nationals to their territory from anywhere in the world. This is reflected by the approach of some of the Member States where the policies relating to attracting (highly) qualified third-country nationals are particularly well developed. The national contributions of **Germany** and the **United Kingdom** show, that no agreements are entered into since the policy focuses on attracting third-country nationals from every country where their skills and qualifications can fulfil the gaps and shortages needed at national level.

### 3.6 Brain Drain and Brain Circulation

Most of the Member States do not address the issues of brain drain and brain circulation in their national policies to attract (highly) qualified third-country nationals. The focus of their policies is to find the most qualified and to encourage their long-term settlement. Some Member States (for example **Austria**, **Finland**, **Slovak Republic** and **Sweden**) have however acknowledged the risk of excessive “absorption” of the labour force from third countries where it is needed locally. For example, in **Finland** and the **Slovak Republic**, cooperation with countries of origin to prevent brain drain and to promote development has been mentioned as a general objective within migration policies while in **Sweden**, the Government appointed, in 2009, an independent Parliamentary Committee to examine the connection between circular migration and development. The final report of the Committee in 2011 included several policy relevant proposals including allowing longer periods of absence from Sweden without the loss of residency status and providing support to diaspora groups. These proposals are currently being considered within the relevant Government offices.

In Member States where the issue of brain drain is specifically addressed, this is done through national legislation and/or bilateral agreements. For example, in **Belgium**, legislation states that the authorities can refuse a work permit application in cases where the relevant sector in the worker’s country of origin is experiencing a lack of qualified workers. In **Czech Republic**, access to the project ‘Selection of Qualified Workers’, was denied to some countries or quotas for applicants established, with the aim of preventing brain drain. Graduates from Czech educational institutions receiving foreign assistance were also excluded from the project. The Residence Act in **Germany** gives the opportunity to enact per statutory instrument that nationals from certain third countries shall not be issued an EU Blue Card due to a shortage of skilled workers in certain occupational groups in the country of origin. However, a corresponding statutory instrument outlining these countries has not been issued to date.

**Slovenia** has concluded bilateral agreements with third countries which include provisions to avoid the risk of brain drain. For example, according to the Agreement between the Government of the Republic of Slovenia and the Council of Ministers of Bosnia and Herzegovina, the latter has the possibility to restrict the employment of individuals in cases where their departure

to Slovenia could undermine the labour market situation in Bosnia and Herzegovina.

Brain drain is sometimes addressed through the implementation of projects and programmes. For example, a number of specific programmes and pilot projects have been developed in **Germany** for certain third countries, such as the "Returning Experts" Programme and the "Triple Win Nurses - sustainably attracting nurses" programme. Arrangements exist also in the **United Kingdom** to control the recruitment of healthcare professionals from developing countries as well as some free trade agreements. For example, a Code of Practice for international recruitment for National Health Service employers was drafted in 2001, and subsequently strengthened in 2004, to cover recruitment agencies, temporary staff and private sector organisations providing services for the NHS. The key point of the Code of Practice is that healthcare professionals should not be *actively recruited* from developing countries, unless there is a bilateral governmental agreement which supports such recruitment.

The issue of brain circulation is addressed mainly through projects implemented jointly in the Member State and in a third country. In **Italy**, for example, effective policies for co-development have been carried out within the framework of decentralized cooperation as well as in the systems of compensation covered by bilateral agreements on labour.

## 4. Effectiveness of Policies and Measures

When looking at trends in the proportion of employed third-country nationals working in high-qualified occupations (ISCO 1-3) over the period 2008-2012, the vast majority of Member States which had specific policies and measures in place to attract (highly) qualified immigrants saw an increase in their proportion on the total number of employees in these occupational levels between 2008 and 2012. In **Luxembourg**, this increase was particularly evident (the proportion increased from 4% to 13%). Between 2010 and 2011, there was also an increase in the proportion of employed third-country nationals working in high-qualified occupations in the **United Kingdom** (from 8.8 to 10.4%). This increase coincides with the amendments made, in 2011, to Tier 1 of the points-based system (PBS) for categories of 'high value migrants' who contribute to growth and productivity – the Investor, Entrepreneur, Graduate Entrepreneur and Exceptional Talent Routes, which aimed to encourage high-value applicants. The amendments also had an impact on the number of Investor and Entrepreneur visas issued.

In **Austria, Finland, Ireland** and the **Netherlands** the share of (highly) qualified migrants remained overall stable during the period under observation. In the **Netherlands**, the decrease in the number of residence permits issued to (highly) qualified migrants, witnessed in the years 2009-2011, is interpreted as a result of the worsening economic situation in the country. **Greece** showed a decline over the full period covered (2008-2012) which is also largely attributed to the economic situation (decrease in employment placements, salary cuts, fewer research grants, etc.).

### *National Evaluations of Impacts*

Only a few Member States have specific evaluation systems in place for regularly assessing the impacts of policies aimed to attract highly qualified and qualified third-country nationals (**Ireland** and the **Netherlands**). In others (**Austria, Germany, France, Spain, Sweden** and the **United Kingdom**), although a thorough evaluation has not been conducted or periodic evaluation and monitoring is not in place, various reports reviewing some aspects of the effectiveness of policies were recently published or will be published in the future.

Overall, a number of impacts were identified in the Member States by the reports, evaluations and interviews with stakeholders conducted in the context of the studies.

Some of the evaluation reports, in addition to identifying the impacts of the current system, also focus on areas for improvement and possible future reforms. For example, evaluations carried out in **France** advocated for an improved transparency, streamlining requirements linked to the different residence permits, an improved coordination between the stakeholders involved in the provision of permits and improved analysis of shortages and needs within the national market (through consultation with the social partners and regional councils).

The identified areas for improvement by some Member State evaluations have led to the adaptation of policies and thus good practices emerging. These are described further in the section below.

## 4.1 Emerging Good Practice

Based on the examples provided by Member States through national evaluations (or individual analysis) as well as an overall analysis of the National Reports, emerging good practice has been identified in relation to a number of different aspects of the migration process.<sup>35</sup>

The good practice identified in the National Reports is the following<sup>36</sup>:

### *Information provision*

- The provision of relevant, up-to-date information and guidance to (highly) qualified third-country nationals (**Austria, Germany, Netherlands,<sup>37</sup> Slovenia**) to inform them of the migration process and the situation that awaits them in the Member State;
- The establishment of focal points in some selected third countries (**Slovenia**). For example, a focal point was established in the former Republics of Yugoslavia to provide information about job opportunities and on conditions and procedures for obtaining the appropriate permits.

### *Adaptation of migration procedures*

- Replacing generic highly-skilled routes by more specialised routes for exceptionally talented individuals, qualified workers and employees of international companies ( **Czech Republic, United Kingdom**) and ensuring that (highly) qualified third country nationals are granted with clearly differentiated permits compared to other non-qualified migrants (**Czech Republic, Ireland**);
- Using premium services to speed up the processing time for (highly) qualified third-country nationals (**Spain, United Kingdom**);
- Fixing a salary threshold in order for the salaries to be at an achievable level (**Estonia**), or to avoid excessive pressure on some sectors (**Luxembourg**);
- Maintaining an open, employer-driven system for labour immigration that minimises bureaucracy while preventing wage-dumping and exploitation of foreign workers by untrustworthy employers (**Sweden**).

### *Introduction of incentives to attract (highly) qualified migrants*

- Tax advantages to attract and retain (highly) qualified third country nationals (**France, Ireland, Luxembourg, Malta, Netherlands**);

<sup>35</sup> The Member States that are listed below include those that have identified good practice through evaluations undertaken at national level (Austria, France, Germany, Ireland, Netherlands, Sweden and United Kingdom) as well as those that have identified good practice through research and analysis undertaken for the drafting of the National Report and through stakeholder opinion.

<sup>36</sup> The Member States listed have identified the actions as good practices in their National Reports. While other Member States may also apply these measures, these have not identified them as good practice at national level.

<sup>37</sup> This has not been evaluated in the **Netherlands** but is rather a result of analysis.

- Improved family reunification rights in accordance (at least) with the provisions of the Blue Card (**Austria, Belgium, Czech Republic, Germany, Estonia, France, Greece, Lithuania, Italy, Luxembourg, Netherlands, Slovak Republic, Spain, Sweden**);
- Focussing the policies not only on attracting (highly) qualified third-country nationals but also on effectively retaining them (**Netherlands**).

### *Customisation of labour market practices*

- Ensuring that (highly) qualified third country nationals are employed in sectors showing a shortage of domestic supply (**Luxembourg**). This also implies a better and more efficient shortage/needs analysis (**Slovenia**); and
- Involvement of national institutions in scrutinising whether applicants are of the right calibre for talent routes as such institutions can identify exceptionally talented applicants well (**United Kingdom**).

### *Use of evaluations*

- The establishment of a system for the regular evaluation of policies, strategies and schemes (**Germany, Netherlands** and the **United Kingdom**) in order to determine the obstacles existing for attracting (highly) qualified third-country nationals to the territory and to identify measures to remove such obstacles.

## **4.2 Challenges and Barriers**

In addition to identifying emerging good practices, the Member State evaluations, as well as consultations/analysis undertaken, highlighted a number of existing challenges and barriers.<sup>38</sup> These can be broadly divided into the following categories:

- Characteristics which are inherent to the Member State's culture, history and traditions (language, public debate related to immigration, community conflicts, etc.);
- Economic, social and educational factors (economic crisis, salaries/wages, working conditions, etc.);
- Immigration rules and measures (bureaucracy, lack of information, waiting time to process visa applications in the Member State etc.).

Concerning the first category, language has been identified as a barrier in **Germany**, where the majority of companies, especially SMEs, require a good knowledge of German for obtaining a position. Language is also considered as a significant obstacle in **Austria, Finland, Greece, Italy, Latvia, Luxembourg**,<sup>39</sup> **the Netherlands** and **Sweden, Slovak Republic**.

Research indicates that discrimination in the workplace and non-recognition of qualifications could result in decreased opportunities for non-EU nationals in **Ireland** and in **Italy**, where the

<sup>38</sup> Those Member States listed in this section that do not undertake evaluations, as outlined in Section 4.1, identified obstacles and challenges through research and consultations with stakeholders experienced in this area.

<sup>39</sup> In **Luxembourg**, the existence of three official languages creates this obstacle.

National Office against Racial Discrimination has highlighted that ethnic harassment and discrimination in the workplace are increasing. Similarly, in **Austria, Slovak Republic, Germany and Latvia**, negative perceptions of immigration of some parts of society may limit the attractiveness of the Member State to (highly) qualified migrants. In Germany, in order to counteract this, measures have included the establishment of information services and the launching of programmes to promote tolerance of diversity.

As far as economic, social and educational factors are concerned, the recent economic crisis has acted as a major barrier to attracting and retaining (highly) qualified third-country nationals (especially in **Belgium, Finland, Greece, Ireland, Italy, Lithuania, Latvia, the Netherlands, Slovak Republic and Spain**). The crisis has raised domestic unemployment rates and reduced job opportunities both for national citizens and foreign (highly) qualified individuals. The impact of the crisis on attracting (highly) qualified third country nationals is stronger in countries where employer-led systems are in place, such as for example in **Latvia** (see also section 3.5 above). The economic crisis has also exacerbated the negative perception of immigration within national communities, thus creating further obstacles to the integration of (highly) qualified third country nationals.

Salary thresholds have differing impacts in the Member States. In some (**Germany and Luxembourg**), the thresholds can act as a possible deterrent as, in some cases, these prove to be very difficult to achieve, especially for younger individuals. In other Member States (**France, Italy, Latvia, Lithuania and Slovenia**), the salary thresholds are achievable but are not considered as being competitive for attracting third-country nationals to their territory. Moreover, in **Finland**, the income level is considered to be low compared to the cost of living. Similarly, working conditions (limited services to employees and career opportunities) are perceived as a factor lowering the attractiveness of Member States **Ireland and Slovenia** to (highly) qualified third-country nationals, and limited access to public services, for example, information provided in English language, in **Estonia**. This is particularly the case for the science and research sector. In some Member States, insufficient financing from the state budget for the development of science and research projects is considered as a factor limiting the attraction of (highly) qualified researchers and scientists from third countries (**Greece, Italy and Latvia**).

Immigration rules and procedures are also considered to create practical problems in the majority of Member States (**Belgium, Czech Republic, Estonia, France, Germany, Greece, Italy, Ireland, Latvia, Lithuania, Luxembourg, the Netherlands, Slovenia, Slovak Republic, Spain, Sweden, United Kingdom**). Bureaucracy and more specifically the recognition of diplomas and qualifications and the direct and indirect costs of the application process were cited as the most common barriers. A survey conducted among service users in the **United Kingdom** showed that about two thirds of applicants said that the application process was longer than expected. Those who wish to reduce waiting time may use paid for premium services, where decision can be issued within 24 hours of an appointment in most cases. Geographic limitation of residence permits for work and residence has been identified as a barrier in **Spain**. To reduce the bureaucratic burden, a one-stop agency has been introduced in **Latvia** in July 2010 for third-country migrants and their employers. **Slovenia** will also set up a one-stop shop following the transposition of the provisions of the single permit Directive (2011/98/EU) foreseen by end 2013.

The diversity of residence permits for work purposes have resulted in a fragmentation of the policy aimed at attracting (highly) qualified third country nationals, creating confusion amongst the target group in **France**.

Excessive times to process visa applications in the Member States has also been identified as a barrier for (highly) qualified third country nationals wishing to work in the EU (**Germany, Spain and Sweden**). The delays are mainly linked to the time taken for the labour market tests required for some occupations, the involvement of various offices in the visa issuing process, the use of paper forms instead of an electronic system linked to a database) as well as the burdensome registration process or shortages of staff at immigration authorities.

In **Sweden**, the current system is considered to be vulnerable to misuse by untrustworthy employers, with such individuals taking advantage of the possibility to recruit third-country nationals by paying lower wages to employees than originally promised or otherwise circumventing previously agreed working conditions.

In **Lithuania** employers argued that for highly qualified workers, abandoning the labour market test would further facilitate their arrival.

A lack of provision / awareness of information and guidance to (highly) qualified third country nationals is also considered as an obstacle in some Member States (**Belgium, Estonia, Finland, Italy, Lithuania, Luxembourg, the Netherlands and the United Kingdom**), for example with regard to information on schooling possibilities, social and medical care, taxation, family reunification rights, and the specific documentary requirements of these. Awareness is likely to be more limited where policies have been recently introduced. Language has also been reported as a barrier for third-country nationals in some Member States (e.g. **Czech Republic**).

The national evaluations undertaken by some Member States have outlined that the challenges and barriers existing have led to the following impacts:

- The shortage occupations lists do not necessarily keep pace with current needs (**France, Ireland**); in **Ireland**, it is noted that proactive policy measures have not been developed rapidly enough to respond to persistent skills demand, particularly in ICT and health sectors.
- Initially agreed targets for (highly) qualified third country nationals entering the Member States have not been reached for some categories of permits (**France, Netherlands**);
- Policies aimed at attracting (highly) qualified third country nationals have ultimately had a limited impact on migration flows, mainly regarding the “skills and talents” residence permit (**France**) or have not been flexible enough to satisfy the internationalisation needs of national enterprises (**Spain**).

As described in Section 4.1 above, Member States have attempted to adapt their policies in order to take account of these negative impacts.



## 5. Impact of EU Acquis

As set out in Section 2, the EU acquis has developed over recent years in order to facilitate the entry of (highly) qualified workers. The instruments of the EU acquis which have had a particular impact are the 'Blue Card Directive and the Researchers' Directive. The impacts of these Directives are described in turn below.

### 5.1 Blue Card Directive

Member States were required to transpose the Directive by 19 June 2011<sup>40</sup>. Though Member States have commented on the impacts of the Blue Card in their territory, the total number of Blue Card applications (available for 2012 only) is so far quite low which means that it is not yet possible for Member States to draw solid conclusions regarding the overall process. However, it can be outlined that in 2012, the 14 Member States<sup>41</sup> for which Eurostat data is available granted a total of 3 013 EU Blue Cards to (highly) qualified third-country nationals, with the number of Blue Cards issued ranging between 2 584 (**Germany**), 183 (**Luxembourg**) and 1 (**Hungary**). No Blue Cards were issued in 2012 in **Belgium**, **Malta** and **Sweden**.

The countries of origin for Blue Card holders in 2012 varied significantly geographically, with the top ten countries of origin being India (639), China (279)<sup>42</sup>, Russian Federation (251), United States (197), Ukraine (139), Syria (103), Egypt (101), Turkey (99), Japan (79) and Iran (71).

The most prominent occupations filled by Blue Card Holders in 2012 were general management (41), information and communications technology (26) and administrative and commercial management (17).

As outlined in Section 2 and in Annex 3, in many Member States, (**Austria, Belgium, Czech Republic, Estonia, Germany, France, Finland, Italy**), the Blue Card is being used in parallel with other national schemes for the issuing of permits to (highly) qualified third-country nationals wishing to migrate to their territory. According to Eurostat statistics, in **Austria**, 124 Blue Cards were issued in 2012, in comparison with 1 158 permits for highly skilled work in the same period and in **Italy** 6 Blue Cards and 1 695 permits for highly skilled work. ). The **Czech Republic** issued broadly the same number of Blue Cards and other permits for highly skilled work. In **Germany**, it seems that the EU Blue Card is now increasingly being issued instead of a residence permit for qualified employment. The number of Blue Cards issued in **Germany** in 2012 since its introduction in August 2012 amounted to 2 584 In the first quarter of 2013, in total 3 341 Blue Cards have been issued. The residence title specifically for highly qualified third-country nationals was issued 45 times. For researchers the number was 163 and for qualified employment 10 205<sup>43</sup>. The administrative process for changing residence status has improved in **Germany** following the transposition of the Blue Card Directive, making it easier for graduates of German universities who hold, as researchers or scientists, a residence permit for qualified employment or research, to change the purpose of their residence title to self-employment: they may be exempt from

<sup>40</sup> At the time of writing the National Report, Sweden had not yet implemented the Directive into national law. The United Kingdom and Ireland are not signatories to the Directive.

<sup>41</sup> **Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, Germany, Hungary, Italy, Luxembourg, Malta, Poland, Slovenia and the Slovak Republic.**

<sup>42</sup> Including Hong Kong

<sup>43</sup> National statistics.

the requirement to demonstrate that there is an economic interest or regional need, that the self-employed activity is expected to have a positive effect on the economy, and that funding is secured by means of equity capital or a credit commitment. The intended self-employed activity must however be commensurate to the skills and expertise acquired during the university degree or the research activity.

**Belgium, Czech Republic, Germany, Estonia, France, Greece, Hungary, Italy, Lithuania, Netherlands, Poland, Slovak Republic, Slovenia and Sweden** identified a number of benefits arising from the provisions of the Blue Card Directive. The main benefits identified by a number of Member States related to the introduction of a definition of highly qualified third-country nationals which did not exist in national legislation prior to the transposition of the Directive, as discussed in Section 3.1 above. This enabled some of these Member States to become forming their own national policy in line with the EU *acquis*. Member States that have transposed the Directive have applied the same requirements as included in the definitions in Article 2. However, **Belgium**, has taken a more flexible approach, going beyond the provisions relating to professional requirements, with authorities deciding not to make use of the possibility to allow at least 5 years of professional experience of a level comparable to higher education as an indicator, with a minimum of 3 years introduced instead.

In addition, the following main benefits were identified:

- Facilitation of intra-EU mobility;<sup>44</sup>
- Providing the possibility to change jobs;
- Possibility of temporary unemployment<sup>45</sup>;
- Access to long-term residence<sup>46</sup>;
- Facilitation of family reunification<sup>47</sup>.

The introduction of the possibility of temporary unemployment can be considered as real added value of the Blue Card since this did not exist in many Member States prior to the transposition of the Directive into national law. This flexibility allows (highly) qualified third-country nationals to stay in the EU territory in order to look for another employment if their work contract is terminated, which helps to enhance the attractiveness of the EU for such workers.

In addition to the benefits arising from the main provisions of the Directive, the administrative process has also been improved in **Hungary** and the **Slovak Republic**. The Blue Card procedure comprises several new elements in **Hungary** in comparison to the classic procedure for the employment authorisation, with third-country nationals having recourse to one single authority which facilitates administration.

44 Chapter V of the Directive provides for residence in other Member States for the Blue Card holder and their family members.

45 Article 13(1) of the Directive provides that 'unemployment in itself shall not constitute a reason for withdrawing an EU Blue Card, unless the period of unemployment exceeds three consecutive months, or it occurs more than one during the period of validity of an EU Blue Card'.

46 Article 16 provides for long-term residence status for EU Blue Card holders

47 Article 15 provides that Directive 2003/86/EC shall apply with the derogations laid down in the Directive in relation to family reunification.

**Hungary** and **Luxembourg** cited the benefit of the hiring of (highly) qualified third-country nationals without requiring the advice/opinion of a consultative commission, thus making the third-country national play the role of a 'client' in the migration process. In the **Slovak Republic**, the process for issuing permits for highly qualified workers has been sped up, with all issuance decisions now undertaken within 30 days. **Lithuania** also considerably shortened time for issuing permits to highly qualified workers (2 months). This is now in line with the provisions of the Directive which foresees that a decision should be taken as soon as possible and at the latest within 90 days of the application being lodged.

Though the Blue Card has introduced advantages to national systems in place in the majority of Member States that did not have a highly qualified system already, **Austria** and the **Netherlands** have indicated that the Blue Card is no more advantageous than the system that was already in place. In **Austria**, the advantage of an EU Blue Card compared to the Red-White-Red card is limited. Slight advantages only arise when it comes to intra-EU mobility. The **Netherlands** also considered that the Blue Card did not add much value compared to systems already in place. In the **Netherlands**, the national *Highly Skilled Migrants Scheme* has a lower threshold than the European Blue Card because it does not include an educational requirement and has a lower salary criterion.

In addition to the benefits of the Blue Card, one of the obstacles identified by a number of Member States is that the salary threshold for the Blue Card is set at a very high level, which does not reflect the realities of the national labour markets, particularly where salary levels are high. Member States have, however, made use of Article 5(5) of the Directive, applying the reduced salary threshold of 1.2 times the average gross salary for professions which are in particular need of third-country national workers.

## 5.2 Researcher's Directive

Many Member States (**Belgium, Czech Republic, France, Greece, Hungary, Ireland, Italy, Lithuania, Netherlands, Poland, Slovak Republic, Slovenia, Sweden**) noted that the transposition of the Directive led to more favourable legislation, measures and conditions for researchers.

The main advantages in these Member States introduced by the provisions of the Directive related to the following:

- Exemption from the work permit requirement (including associated labour market tests);<sup>48</sup>
- Possibility to apply for a long term residence permit from within the Member State;
- Facilitation of family reunification.<sup>49</sup>

<sup>48</sup> Preamble 11 of the Directive provides that "it is appropriate to facilitate the admission of researchers by establishing an admission procedure which does not depend on their legal relationship with the host research organisation and by no longer requiring a work permit in addition to a residence permit.

<sup>49</sup> Article 9 of the Directive provides that (1). When a Member State decides to grant a residence permit to the family members of a researcher, the duration of validity of their residence permit shall be the same as that of the residence permit issued to the researcher insofar as the period of validity of their travel documents allows it. In duly justified cases, the duration of the residence permit of the family member of the researcher may be shortened. (2). The issue of the residence permit to the family members of the researcher admitted to a Member State shall not be made dependent on the requirement of a minimum period of residence of the researcher.

44

The transposition of the Directive has also had a positive impact on the administrative procedure in the **Czech Republic, Germany, Hungary, Italy, Lithuania** and **Ireland**. This has mainly related to fast tracking of applications (**Czech Republic, Hungary, Ireland, Lithuania, Slovak Republic**) as well as the introduction of single desks and authorities responsible for the processing of these particular applications (**Hungary, Italy**). These measures have sped up the time take for decisions to be made. For example, in **Hungary**, the processing times for considering a residence permit application has reduced from 21 to 15 days

In **Ireland**, a fast tracking system was introducing under the Hosting Agreement Scheme for Researchers in order to improve the administrative process for this group of third-country nationals. In **Italy**, applications by researchers have been processed within the Single Desk duties following the transposition of the Directive.

## 6. Conclusions

The policies in the Member States have developed considerably since the 2007 Study undertaken by the EMN.<sup>50</sup> In 2007, **Estonia, Germany, Ireland, Latvia, Lithuania, Sweden** and the **United Kingdom**, did not have, or had less developed, special regulations existing specifically for third-country highly qualified workers, with general regulations applying to all foreign nationals for rights and entitlements in relation to family, social and health insurance, the taxation regime, access to education and settlement, while today **Germany, Ireland** and **United Kingdom** have well-developed policies and related measures in place and **Estonia** is in the process of developing its policy and related legislation.

EU-15 Member States overall have been among the first to develop policies and measures specifically aimed at attracting (highly) qualified third-country nationals, taking account of labour market needs and anticipating demographic change. In a number of cases, this happened before or during the introduction, adoption and transposition of the Blue Card Directive, which led to parallel schemes and measures within some Member States, still existing today, with different conditions and requirements, depending on the scheme. Other Member States have relied on the introduction of the Blue Card to shape policy and regulate entry and admission. Member States with well-developed policies and measures are, overall, the ones also attracting the highest shares of (highly) qualified migrants.

Most EU-12 Member States have to date no specific policies in place in relation to highly qualified, although there are signs that these Member States are increasingly acknowledging the need for a specific policy and several have undertaken the first steps towards this. In this respect, the Blue Card Directive has had a positive impact. First, because it helped Member States with limited or no policies to introduce concepts and definitions and to develop their legal framework on admission and entry of highly qualified workers around these. Second, on the back of this, it encouraged their policymakers to consider the direction of the national policy, in terms of the needs of the labour market and the type of occupations / qualifications required to address gaps.

On top of facilitated entry and admission procedures for (highly) qualified migrants, Member States have recognised the importance of additional incentives to influence the migration decision of third-country nationals. This includes, in particular, offering improved family reunification rights, tax incentives, social security benefits and unrestricted labour market access. Entry and admission is also further assisted through fast-tracking and reduction of application fees. Wider measures to reach out to (highly) qualified third-country nationals include the provision of information, participation in recruitment fairs and the use of networks. These measures have led to the identification of emerging good practices such as the provision of information, the adaptation of migration procedures and the customisation of labour market practices in the Member States.

The focus on attracting self-employed persons, entrepreneurs and investors is also increasing in the EU, in line with the development of EU policy in this area. While in 2007, there were notable

<sup>50</sup> The EMN Synthesis Report for the 2007 Study on Conditions of Entry and Residence of third-country highly skilled workers in the EU presents the findings from eleven Member States: **Austria, Belgium, Estonia, Germany, Greece, Ireland, Italy, Latvia, Sweden, Netherlands, United Kingdom**.

schemes in place for self-employment in **Belgium, Estonia, Germany, Ireland, Italy, Netherlands** and the **United Kingdom**, such schemes are now in place in 13 Member States. Specific measures, such as accelerated procedures and funding thresholds, are used to attract entrepreneurs and investors to the national territory, with Member States identifying the economic potential of these groups of third-country nationals, particularly during times of economic crisis. Indeed, the main admission criterion for entrepreneurs in the Member States relates to the perceived added value of the activity to the national economy. The main admission criterion for investors relates to the sum of money to be invested at national level.

While Member States are in the process of developing (and maintaining) policies and measures specifically aimed at attracting (highly) qualified third-country nationals, it is interesting to note that little focus has been placed on increasing relations with third countries through the conclusion of specific bilateral agreements, especially when compared to the high number of general labour migration agreements in place with third countries. The limited number of specific third country agreements may reflect the wish for Member States to guarantee open competition for talent, thus ensuring that the labour market gaps are filled by the most suitably qualified candidates.

Though the development of policy specifically targeted at attracting (highly) qualified third-country national workers has been subject to debate in the Member States, due to high national unemployment rates caused by the economic crisis, it is expected that national policies will further develop, with some Member States placing an increased focus on identifying specific occupational and sectoral gaps in the labour market which cannot be filled by nationals or EU citizens. As these policies and the measures to implement them develop, there will be a need to increase the monitoring and evaluation of both the labour market and the national policies, already identified by some Member States as good practice, in order to ensure that national objectives are being achieved, labour market needs are identified in time and that any challenges and obstacles faced by (highly) qualified third-country nationals wishing to enter the EU are effectively removed.

# ANNEX 1. International Classifications of Education and Occupations

There is no commonly applicable definition of the terms “highly qualified” and “qualified”. This is because definitions often depend on national labour market demands and other national criteria. The most common denominators consider level of education, the type of job (occupation) or salary level. For education and occupation, International Standard Qualifications exist to which most national statistical classifications are linked.

## UNESCO’s International Standard Classification of Education (ISCED) 1997

The ISCED classifies education levels into six different level. The definition for “highly qualified” from an educational perspective relates, in most national contexts, to first (Level 5) and secondary (Level 6) stages of tertiary education. The definition for “qualified” is less clear but can concern upper secondary (Level 3) and post-secondary (Level 4) education. The definitions for these are the following:

- Level 3 (Upper Secondary Education) is defined as a level of education that typically begins at the end of the full-time compulsory education for those Member States that have a system of compulsory education. The educational programmes included at this level typically require the completion of some 9 years of full-time education for admission or a combination of education and vocational or technical experience;
- Level 4 (Post-Secondary Non-Tertiary Education) is defined as a level of education that captures programmes that straddle the boundary between upper-secondary and post-secondary education from an international point of view although they might be clearly considered as upper-secondary or post-secondary programmes in a national context. Considering their content, Level 4 programmes cannot be considered as tertiary programmes;
- Level 5 (First stage of tertiary education) is defined as Bachelor and Master Degree level in the Member States, with programmes having a cumulative theoretical duration of at least two years from the beginning of Level 5;
- Level 6 (Second stage of tertiary education) is defined as Doctorate Degree level (PhD) in the Member States with this level typically requiring the submission of a thesis or dissertation of publishable quality which is the produce of original research and represents a significant contribution to knowledge.

## ILO’s International Standard Classification of Occupations (ISCO), ISCO-88 and ISCO-08<sup>51</sup>

For definitions based on the ISCO, “highly qualified” as well as “qualified” mostly relate to occupations in Major Groups 1-3 within ISCO-88 and ISCO-08.

<sup>51</sup> Available at <http://www.ilo.org/public/english/bureau/stat/isco/isco08/index.htm>

The ILO Major Groups are the following:

- (1) Managers
- (2) Professionals
- (3) Technicians and Associate Professionals
- (4) Clerical support workers
- (5) Service and sales workers
- (6) Skilled agricultural, forestry and fishery workers
- (7) Craft and related trade workers
- (8) Plant and machine operators, and assemblers
- (9) Elementary Occupations
- (0) Armed forces occupations

A full overview of all Major Groups and Sub-groups are given below



## ANNEX 2. Presence of Policies and Strategies for Attracting (Highly) Qualified Third-Country Nationals

**TABLE A2.1** Presence of Policies and Strategies for Attracting (Highly) Qualified Third-Country Nationals Per Member State

Member State	Specific policy/strategy on (highly) qualified TCN		Provisions in wider migration policies/strategies	No provisions on (highly) qualified TCN
	Consolidated policy	Fragmented (different permits)		
Austria	x			
Belgium			x	
Cyprus				x
Czech Republic		x	x	
Germany	x			
Estonia			x	
Finland			x	
France		x		
Greece			x	
Hungary			x	
Ireland	x			
Italy		x		
Latvia				x
Lithuania			x	
Luxembourg			x	
Malta				x
Netherlands	x			
Poland				x
Slovak Republic			x	
Slovenia			x	
Spain	x			
Sweden			x	
United Kingdom	x			

## ANNEX 3. National Concepts

A number of concepts exist in the Member States in relation to (highly) qualified third-country nationals. These are associated, in many cases, to the schemes in place. The table provides an overview of those existing in the Member States, as well as the requirements associated with the concepts. The requirements provided in accordance with the Blue Card are not included per Member State since national requirements are in accordance with the Directive.

**TABLE A3.1** *Existence of National Schemes, Definitions and Concepts Relating to Qualified and Highly Qualified Third-Country Nationals*

Member State	Schemes/Permits for (highly) qualified third-country nationals	Description of Concepts
Austria	<p>A scheme with different categories was created that determines which third-country nationals are considered as (highly) qualified and eligible candidates under the <b>Red White Red Card</b>.</p> <p>The scheme subdivides categories which lead to different concepts and requirements.</p> <p>The Blue Card and the Red White Red Card developed in parallel.</p> <p>An applicant for an EU Blue Card will in most cases be eligible to receive a RWR Card.</p>	<p>Two different schemes – Blue Card and Red White Red Card though they are similar in many ways for highly qualified third-country nationals. No definitions as such but the tiered scheme determines which third-country nationals are considered as (highly) qualified and therefore eligible under the Red White Red Card.</p> <p>Different concepts and requirements for <b>Very highly qualified workers; skilled workers in shortage occupations; other key workers; graduates of Austrian universities and colleges of higher education and self-employed key workers.</b></p> <p>With regard to self-employed key workers, third-country nationals can be admitted under this tier provided that they pursue a gainful activity which supports overall economic growth, especially in terms of the associated transfer of capital investment and/or the creation and maintenance of jobs.</p>
Belgium	<p>Three types of work permits that grant limited or unlimited access to the labour market</p> <p><b>Type A</b> – grants free access to the labour market and is not linked to a specific employer. Can be obtained after having worked with a work permit Type B for a certain number of years.</p> <p><b>Type B</b> – the most common type of work permit for highly qualified third-country nationals.</p> <p><b>Type C</b> – grants the holder free access to the labour market and is not linked to a specific employer. This type of work permit can be obtained by individuals whose right to stay in Belgium is based on different grounds than labour migration. The permit has a maximum validity of 12 months renewable. It is not available to family members of labour migrants.</p>	<p>Two co-existing systems for employment authorisation of highly qualified third-country nationals: Type B Work Permit and the Blue Card.</p> <p>Even though Belgian legislation contains clauses that apply specifically to highly qualified workers, no definition for this is provided.</p> <p>Interpretations are given by the issuing bodies within the regions such as “Persons who have completed university education, higher education or similar education and who are employed in that capacity for a minimum salary laid down in the Royal Decree”.</p> <p>There is <b>no definition of qualified third-country national</b>.</p> <p>In comparison to the Blue Card, Belgian authorities have decided not to make use of the possibility to allow at least 5 years of professional experience of a level comparable to higher education as an indicator. The minimum gross annual salary for a Blue Card is €49 995 for 2013.</p>
Czech Republic	<p>There are several schemes aimed at (highly) qualified foreigners. These are:</p> <ul style="list-style-type: none"> <li>• Green Card</li> <li>• Blue Card</li> <li>• Selection of Qualified Foreign Workers Project</li> <li>• Accelerated Procedure for Intra-corporate Transfers of Foreign Investors’ Employees</li> </ul>	<p>A distinction is made between highly qualified and qualified third-country nationals.</p> <p>There is no definition but rather requirements for the different permits available.</p> <p><u>Highly Qualified third-country nationals</u> are considered to be:</p> <p><b>Green Card Type A</b>  <b>Green Card Type A/Key personnel</b> – The key factor in this regard is that the employer’s need is being filled. Education is not decisive.  <u>Qualified third-country nationals</u> are considered to be:</p> <p><b>Green Card Type B</b>  A distinction is made between highly qualified and qualified in order to set more advantageous conditions for highly qualified third-country national workers.</p>

	Requirements		
	Education	Salary	Level/Years of Experience <sup>52</sup>
	<p><b>Very highly qualified workers:</b> First or second stage of tertiary education (Levels 5 and 6 ISCED)</p> <p>Level of education is decisive for this group.</p> <p><b>Skilled workers in shortage occupations:</b> higher education is not a prerequisite but gives additional points.</p> <p>Completion of professional training in a relevant shortage occupation</p> <p><b>Graduates of Austrian universities and colleges of higher education:</b> Levels 5 and 6 ISCED</p>	<p><b>Other key workers:</b> Minimum salary of €2 664 (over 30 years of age) and €2 220 (under 30 years of age)</p> <p><b>Graduates of Austrian universities and colleges of higher education:</b> Minimum of €1 998 per month</p> <p><i>All figures for 2013</i></p>	<p><b>Very highly qualified workers:</b> ISCO Groups 1-3</p> <p><b>Skilled workers in shortage occupations:</b> ISCO Groups 4-8</p>
	University Education/Higher Education/Similar Education	Minimum salary laid down in the Royal Decree (€38 665 for 2013)	
	<p><b>Green Card (Type A):</b> Levels 5 and 6 ISCED</p> <p><b>Green Card (Type A/Key personnel):</b> Education level if not decisive</p> <p><b>Green Card Type B:</b> Vocational school training as a minimum – Levels 3C and 3A ISCED</p>	<p><b>Green Card (Type A and Key Personnel):</b> Guaranteed Minimum Wage</p> <p><b>Green Card Type B:</b> Guaranteed Minimum Wage</p>	<p><b>Green Card (Type A):</b> ISCO 1-5</p> <p><b>Green Card Type B:</b> ISCO 1-5</p>

Member State	Schemes/Permits for (highly) qualified third-country nationals	Description of Concepts
Germany	<p>Federal Government's Strategy for employment immigration focuses on skilled worker, with the immigration management system and a firm offer of employment being at the heart of the strategy.</p>	<p><b>Concepts</b></p> <p>There are two types of classification for defining highly qualified and qualified third-country nationals. The definition according to German Residence Law (forming the basis for issuance of residence titles) and the definition according to occupational relevance.</p> <p>The Federal Government generally defines highly qualified third-country nationals as graduates i.e. persons with a (recognised) university degree.</p> <p>Since 1 August 2012, Section 19a of the German Residence Act - the EU Blue Card - has been authoritative for defining highly qualified third-country nationals. The income requirements are the following: Annual income that corresponds to at least two-thirds of the annual income threshold for the general pension insurance (€46 400 in 2013). For professions where there exists a special demand of skilled workers the minimum annual income is 52% of the annual income threshold for general pension insurance (36 192 euro in 2013).</p> <p>The Classification of Occupations can also give an indication though there is no unified definition of activities that must be performed by highly qualified or qualified persons. Activities for highly qualified third-country nationals best correspond to Levels 4, 3 and 2.</p> <p>The term "skilled worker" includes both highly qualified and qualified persons.</p>
Estonia	<p>The term <b>"top specialist/senior specialist"</b> will be added to the Aliens Act as a result of the amendments that will come into force September 1st 2013.</p> <p>The proposed definition is the following: <i>"Senior or top specialist is a foreigner who has professional training or experience in any area of activity, whose employer is registered in Estonia and has agreed to pay the foreigner at least the latest annual average wages in Estonia published by Statistics Estonia, multiplied by the coefficient 2".</i></p>	<p>No definition of highly qualified foreigners/third-country nationals is currently provided by national legislation.</p> <p>Currently, the salary threshold has the coefficient 1.24 of the annual average gross monthly salary, as last published by Statistics Estonia. This applies to experts, advisors and consultants. The Blue Card threshold is 1.5</p>
Finland	<p>Residence permits for <b>specialists</b> is a one step process with no labour market needs test.</p> <p>Specialist, EU Blue Card</p>	<p>There are two types of permits available. A Residence permit for specialists and a Blue Card.</p> <p>Though there is no definition, section 79(1) of the Aliens Act mentions persons who work in senior or middle management in companies or in other duties, which require special competencies. These are the persons, who are referred to as 'specialists', which are closest to the mentioned definition of highly qualified third-country nationals.</p> <p>For the Blue Card, a gross minimum salary of EUR 4,667 per month is required</p>
France	<p><b>Skills and Talents</b> Residence Permit. Issued to third-country nationals "who are likely to contribute, through their skills and talents, in a significant and lasting manner to the economic growth, the territorial development and to the international outreach notably intellectual, scientific, cultural, humanitarian or sports of France and, directly or not, of their country of origin". Less than 300 permits are issued per year.</p> <p><b>Employee on assignment</b> residence permit aims to simplify procedures for the employees of international groups who are seconded or transferred to carry out temporary employment in France.</p> <p><b>Residence permits issued on grounds of exceptional economic contribution</b></p> <p><b>Temporary residence permit for international students in order to gain first work experience in France. Researcher's permit</b></p>	<p>There are a number of permits available including the Blue Card.</p> <p>There is no definition of highly qualified third-country nationals in France apart from that provided in relation to the Blue Card. This definition of highly qualified third-country nationals relies therefore on the level of qualification, professional experience at a comparable level, salary and length of employment contract.</p> <p>The lack of a definition is due to the fact that definitions are often linked to national labour market requirements and other national criteria.</p> <p>There are also no provisions for qualified third-country nationals. The "employee" residence permit can be issued to highly qualified, qualified and less qualified third-country nationals. A salary threshold is used as a benchmark which is 1.5 times the minimum wage.</p> <p>With regard to the Blue Card, at least 1.5 times the benchmark gross salary is €52 752 per annum.</p>

	Requirements	
	Education	Level/Years of Experience <sup>52</sup>
	<p>Highly Qualified workers: Tertiary</p> <p>Degree from a German university or a (recognised) degree from a foreign university</p> <p>Qualified workers: German professional qualification or a (recognised) professional qualification form abroad.</p>	<p>Highly Qualified workers: Levels 1 -3 ISCO</p> <p>Qualified workers: Levels 4 – 8 ISCO</p>
	Coefficient 1.24 of the annual average gross monthly salary	
	Academic Qualifications	Higher than the average salary which corresponds to a gross salary of at least €3 000
ISCED 5, 6	At least 1.5 times the minimum wage (Qualified workers and employees on assignment)	ISCO 1-3

Member State	Schemes/Permits for (highly) qualified third-country nationals	Description of Concepts
Greece		<p>The definition is founded on the law transposing the EU Blue Card Directive.</p> <p>"highly qualified employment" means the employment of a person who:</p> <ol style="list-style-type: none"> <li>1. is protected by the Greek labour laws as an employee providing genuine and effective work for or under the direction of someone else, irrespective of the legal form of this relationship;</li> <li>2. is paid; and</li> <li>3. had the required adequate and specific competence, as proven by higher professional qualifications, i.e. qualifications attested by evidence of higher education qualifications or, by way of derogation, by at least five years of professional experience of a level comparable to higher education qualifications and which is relevant to the profession or sector specified in the work contract.</li> </ol>
Hungary		<p>There are only references to highly qualified employment of third-country nationals defined at EU level according to the Blue Card Directive. The requirements of the Blue Card are imposed.</p> <p>Interpretations have considered that it could relate to Skills Level 4 typically <i>involving the performance of tasks which require complex problem solving and decision making based on an extensive body of theoretical and factual knowledge in a specialised field. The capacities and skills required at this level are usually obtained as the result of study at a higher educational institution leading to the award of a first degree or higher qualification</i></p>
Ireland	The <b>Green Card</b> employment permit is issued to highly qualified third-country nationals.	<p><b>Concepts</b></p> <p>Remuneration is used as an indicator of skill. The terms qualified and highly qualified are considered to be broadly equivalent.</p> <p>The closest equivalent to a 'highly qualified' migrant in the Irish policy context is a green card holder, or a work permit holder with high annual remuneration (over €60 000 per year).</p> <p>Qualified workers may be interpreted to be employment permit holders (other than green card holders) who work in jobs attracting an annual salary of €30 000 to €60 000.</p>
Italy		<p>"<b>Highly qualified</b>"- a foreign worker must have completed a high school course of study of at least 3 years in his/her country of origin, and must have obtained a professional qualification which is recognized in Italy and falls within the levels 1, 2 and 3 of the ISCO classification.</p> <p>The Salary level for Blue Card holders is the following:</p> <p>Gross Annual Salary should not be less than three times the minimum salary required to obtain exemption from paying health card expenses (no less than €24 789).</p> <p>If there is a spouse, this amount is further increased by €516 for each dependant family member.</p>
Latvia		<p>No definition is provided but there is a concept of what constitutes a highly qualified third-country national who do not fall within the Blue Card Directive.</p>
Lithuania		<p>The amendments to the Law on the Legal Status of Aliens which entered into force on 1 Jan 2013 introduced a definition of high professional qualification and set forth requirements for third-country nationals seeking highly qualified employment.</p>

	Requirements		
	Education	Salary	Level/Years of Experience <sup>52</sup>
	Degree qualification required if salary between €30 000-€60 000	<p>Minimum salary of €30 000 provided occupation is on the Highly Skilled Occupations list.</p> <p>All occupation eligible provided annual salary is €60 000 and over</p>	
	ISCED level 5 and 6		No
	ISCED Levels 5 and 6		Work in the profession complying with education.
	<p>Non-regulated professions: ISCED Level 5 and 6</p> <p>Regulated professions: Professional qualification and ISCED Level 4,5 and 6</p> <p>In the case of non-regulated professions higher education qualified) - equivalent to ISCED Levels 5 and 6 professional experience - ISCED Levels 4,5 or 6; ISCO 08 Sub major groups 21 22 23 26 32</p>	<p>Minimum 2 times the average monthly gross earnings in the whole economy.</p> <p>This was a minimum of €1 293 in 2013 (1Q).</p>	<p>Non-regulated professions: not less than 5 years of professional experience equivalent to a higher education qualification</p> <p>Regulated professions: Professional experience if stipulated by legal acts.</p>

Member State	Schemes/Permits for (highly) qualified third-country nationals	Description of Concepts
Luxembourg		<p>Article 45 (2) a) of the Law of 29 August 2008 expressly defines what is a highly qualified employment. It is the employment of a worker who exercises a salaried activity for which s/he fulfils the appropriate and specific competences required for the position (highly professional qualifications) certified by a higher education diploma or supported by a professional experience of minimum 5 years equivalent to a higher education diploma and that are pertinent for the profession or the economic sector indicated in the work contract.</p> <p>The salary requirements are the same as set out in the Blue Card Directive.</p> <p>At least 1.5 times the average gross salary Luxembourg (45,228 x 1.5 = 67,842 Euros in 2013<sup>53</sup>) or;</p> <p>At least equivalent to 1.2 times the average gross annual salary Luxembourg (45,228 x 1.2 = 54,273,60Euros in 2013<sup>54</sup>) for jobs in occupations belonging to groups 1 and 2 (ISCO) for which a particular need for workers from third countries is recognised by the government. Until now this has not been done even though according to the Council of State Luxembourg is confronted with shortages of highly qualified workforce<sup>55</sup>.</p>
Netherlands	<p>A number of schemes are in place:</p> <ul style="list-style-type: none"> <li>• Highly Skilled Migrants Scheme</li> <li>• Highly Educated Migrants Scheme</li> <li>• Orientation Year for Graduates Scheme</li> </ul>	<p>No national definition in place.</p> <p>Depending on the scheme in question, there are conditions which the migrant must satisfy in order to qualify as a highly qualified third-country national.</p> <p>Highly qualified work (highly skilled migrants who have qualified with a <b>Bachelor's or Master's degree</b> and who will generally speaking satisfy a certain <b>income</b> requirement)</p> <p><b>Highly Skilled Migrants Scheme</b> Pilot project short stay – for highly qualified workers who wish to come to work for two months.</p> <p><b>Highly educated migrants scheme</b> <b>Orientation Year for Graduates Scheme</b> - Students from outside the EU who have successfully completed a higher professional education or university education in the Netherlands have the possibility of finding a job as highly skilled migrant within one year from the date of completion of that study</p> <p>Definition of "higher education qualification" and "higher professional qualifications" in line with the transposition of the Blue Card Directive.</p> <p><b>Higher education qualifications:</b> Any diploma, certificate or other evidence of formal qualifications issued by a competent authority attesting the successful completion of a post-secondary higher education programme, on condition that the studies needed to acquire it lasted at least three years.</p> <p><b>Higher professional qualifications:</b> "qualifications attested by evidence of higher education" or by at least five years of professional experience of a level comparable to higher education qualifications and which is relevant in the profession or sector specified in the work contract or binding job offer.</p> <p>The salary threshold for the Blue Card is: PLN 61,191.00 (2012)</p>
Poland		

53 <http://www.guichet.public.lu/citoyens/fr/citoyennete/immigration-visa/sejour-plus-3-mois/salarie-haute-ment-qualifie/index.html>

54 <http://www.guichet.public.lu/citoyens/fr/citoyennete/immigration-visa/sejour-plus-3-mois/salarie-haute-ment-qualifie/index.html>

55 Opinion of the Council of State, Parliamentary document n° 6306/02 of 11 October 2011, p. 2. See [http://www.chd.lu/wps/PA\\_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/141/041/104400.pdf](http://www.chd.lu/wps/PA_RoleEtendu/FTSByteServletImpl/?path=/export/exped/sexpdata/Mag/141/041/104400.pdf)



Requirements		
Education	Salary	Level/Years of Experience <sup>52</sup>

Higher education diploma

**ISCO categories:** In Luxembourg highly qualified workers are considered in the ISCO/08 categories 1 and 2

In case a person does not have a higher education diploma, they can apply if they prove professional experience of a minimum of 5 years equivalent to a higher education diploma and which is pertinent for the profession of the economic sector indicated in the contract

**Highly educated migrant scheme:** Master of PhD degree at one of the top 200 universities in the Times Higher Education World University Rankings, the QS World University Rankings and the Academic Ranking of World Universities.

Or recognised higher professional education at a Dutch institution

**Highly skilled migrants scheme:** €52 010 (30 years and over)

€38 141 (under 30 years of age)

**Pilot project short stay:** Salary must be proportionately equivalent to the salary as demanded for highly skilled migrants of 30 years of age and over

**Highly educated migrant scheme:** Income of €27 336

**Orientation Year for Graduates Scheme:** Income of €27 336

Member State	Schemes/Permits for (highly) qualified third-country nationals	Description of Concepts
		<p><b>Highly qualified-</b> employment for the performance of which a higher professional qualification is required. Higher professional qualification is understood as the qualification proved by a document of university education or document certifying the performance of more than five years of professional experience in the respective area which is of comparable level with the university education which was issued as per a special regulation.</p> <p>This definition of highly qualified employment can be found in Art. 37, par. 3 of Act No. 404/2011 on Residence of Aliens and on Changes and Amendments to Some Acts (Act on Residence of Aliens), though this definition only defines the term highly qualified employment for the purpose of issuing the EU Blue Card</p> <p>The National Report uses the definition of the international standard classification of jobs ISCO-88, transposed to the extended classification of occupations KZAM-R in the SR. KZAM-R classifies workers mainly according to the nature of work, difficulty, responsibility and qualification requirements for the performed work. According to KZAM-R, the first three major groups can be considered as highly qualified employment, comprising the following groups of workers:</p> <ol style="list-style-type: none"> <li>1. <b>Legislators, senior officials and managing employees.</b></li> <li>2. <b>Scientists and professionals,</b> (i.e. international classification of qualifications ISCED 5 and 6);</li> <li>3. <b>Technical, healthcare and teaching staff, and workers in related fields</b> (i.e. international classification of qualifications ISCED 5 or 4)</li> </ol>
Slovak Republic		
Slovenia		<p>Although an explicit definition of "highly qualified" and "qualified" employee is not included in the strategy, the latter generally distinguishes between highly qualified and qualified and low qualified workers.</p>
	<p>Once the legal project of law for attracting entrepreneurs and investors will be approved (in September 2013), two schemes for (highly) qualified third-country nationals will be differentiated:</p> <ul style="list-style-type: none"> <li>• Blue Card</li> <li>• The new scheme for: <ul style="list-style-type: none"> <li>Investors</li> <li>Entrepreneurs</li> <li>Highly qualified workers</li> <li>Researchers</li> <li>Intra-corporate transfers</li> </ul> </li> </ul>	<p>Highly qualified workers- for executive staff and managerial employees who want to be hired by an organisation with specific requirements related to the size, number of workers... It is also considered as highly qualified workers graduates and post-graduates individuals who have studied at highly recognized Universities and Business Schools.</p> <p>Investors- for individuals who wish to invest in Spain an amount of money. The sum (500, 000 to 2 million euro) depends on the kind of investment. It will also be considered as an investor the individual who wants to develop a business project in Spain and the project is considered good for the national interest.</p> <p>Entrepreneur- for individuals who wish to invest by setting up or taking over and being actively involved in running a business in Spain and the activity has an special economical interest for Spain. This character is recognised by a decision of the national authority according to different requirements, for example, the business plan, the individual's profile.</p> <p>Researchers- for scientists, technicians, researchers and lecturers.</p> <p>Intra-corporate transfers- for third country nationals who have been working in an organisation for, at least, three months and have qualifications attested by evidence of higher education qualifications or, by way of derogation, by at least three years of professional experience.</p>
Spain		
Sweden		<p>As the Swedish policy for labour immigration does not specifically target highly-skilled migrants but provides an employer-driven system for recruitment which is open to all skills levels, <b>there is no official legal definition in the Aliens' Act of what a highly-qualified worker is, nor are there any salary thresholds.</b></p>

	Requirements		
	Education	Salary	Level/Years of Experience <sup>52</sup>
	Document of university education	1.5-fold the average salary in the given economic sector in line with the provisions of the EU Blue Card Directive	document certifying the performance of more than five years of professional experience in the respective area which is of comparable level with the university education

Level 5 and 6 ISCED

## Member State

## Schemes/Permits for (highly) qualified third-country nationals

## Description of Concepts

A number of Tiers exist in relation to the **Points Based System**.

Tier 1 consists of five high priority routes that are available to **investors, entrepreneurs and those who are exceptionally talented in the fields of sciences, humanities and arts**.

**Investor** - for high-net-worth individuals who wish to invest in the United Kingdom. Funds must be held in a regulated financial institution and must be disposable in the UK. Applications are assessed solely on their ability to make a substantial financial investment.

**Entrepreneur** - for individuals who wish to invest by setting up or taking over and being actively involved in running a business in the UK.

**Graduate Entrepreneur** - For MBAs (Master of Business Administration) or other graduates of Higher Education Institutions who wish to establish one or more businesses in the UK. This category also applies to overseas graduates who have been identified by UK Trade Investment as elite global graduate entrepreneurs.

Other requirements: Letter of endorsement from higher education institution, availability of a minimum of £1,800 maintenance funds. Knowledge of B1 English, **2,000 places per year**

**Exceptional Talent** - For people who are internationally recognised as world leaders or potential world-leading talent in the fields of science, humanities and arts and who wish to work in the UK.

Quota: 1,000 places per year

## United Kingdom

Requirements		
Education	Salary	Level/Years of Experience <sup>52</sup>
<p><b>Graduate Entrepreneur:</b> Minimum Bachelor's degree (ISCED level 5A Medium), MBA (ISCED level 5A Long) for global graduates.</p> <p><b>Exceptional Talent:</b> PhD (ISCED level 6) for natural and social scientists, medical researchers, engineers or scholars in the field of humanities. No formal requirement for exceptionally talented applicants in the field of arts and culture</p>	<p><b>Investor:</b> Availability of at least £1 million to invest in the UK. No quota on the number of visas issued.</p> <p><b>Entrepreneur:</b> Availability of £200,000 to invest in the business or access to £50,000 if it is obtained from a specified source. Availability of a minimum of £3,100 maintenance funds. Knowledge of English equivalent to B1.</p>	<p><b>Graduate Entrepreneur:</b> Need to be a recent graduate</p> <p><b>Exceptional Talent:</b> Successful candidates need to be endorsed by a designated competent body which recognises that applicants' work is of exceptional quality and has international recognition.</p>

## ANNEX 4. Member State Agreements Focusing on the Attraction of (Highly) Qualified Workers

Member State	Agreements
	<p>Bilateral agreements related to the concerted management of migratory flows:</p> <ul style="list-style-type: none"> <li>• France-<b>Senegal</b> Agreement of 23 September 2006,</li> <li>• France-<b>Gabon</b> Agreement of 5 July 2007,</li> <li>• France-<b>Congo</b> Agreement of 25 October 2007,</li> <li>• France-<b>Benin</b> Agreement of 28 November 2007,</li> <li>• France-<b>Tunisia</b> Agreement of 28 April 2008,</li> <li>• France-<b>Mauritius</b> Agreement of 23 September 2008,</li> <li>• France-<b>Cape Verde</b> Agreement of 24 November 2008,</li> <li>• France-<b>Burkina Faso</b> Agreement of 10 January 2009,</li> <li>• France-<b>Cameroon Agreement</b> of 21 May 2009 (not yet ratified).</li> </ul> <p>Labour migration agreement also signed with <b>Russian Federation</b> (2009).</p>
France	<p>Bilateral agreements relating to youth mobility with <b>Macedonia</b> (2009), <b>Montenegro</b> (2009), <b>Serbia</b> (2009) and <b>Lebanon</b> on the mobility of young people and workers (2010).</p> <p>These agreements contain measures specifically intended for (highly) qualified third-country nationals. It provides partner country nationals with a facilitated regime, with provisions in place for opening up the French labour market, based on lists of professions established according to the needs expressed by the partner country, allowing employees to work across the French territory.</p> <p>Provision has been made for measures relating to the "skills and talents" residence permit in the agreements on the concerted management of migratory flows signed with <b>Benin, Burkina Faso, Cameroon, Cape Verde, Gabon, Mauritius, the Republic of Congo, Senegal and Tunisia</b>. This facilitates the issuance of this residence permit with nationals of these third countries as well as providing clauses relating to young professional exchanges for those aged 18 to 35, for temporary stays of up to 18 months. These measures have also been added in the agreements on labour migration and/or youth mobility, signed with Lebanon, Macedonia and Montenegro.</p> <p>Measures relating to the "employee on assignment" residence permit are included in the agreements with: <b>Senegal, Lebanon, Macedonia, Montenegro and Russian Federation</b>.</p>
Netherlands	<p>The Dutch government signed a social security treaty with the Minister of Overseas Indian Affairs on 22 October 2009. The treaty was signed in the Indian capital city of Delhi.. This treaty provides for a closer collaboration between the Netherlands and India and its aim is to make the migration of highly qualified migrants and experts to move more easily between the two countries. Employees of companies who are seconded from one country to work in the other country are exempted for a maximum period of 60 months from paying social security payments in the guest country. They are insured during this period through their country of origin and there is no need to pay double premiums. Employees or self-employed workers who are not seconded are included under the system of the guest country and not under the system of the country from which they were sent. Therefore they are also not required to pay double premiums.</p> <p>The treaty makes it more attractive for Indian businesses to set themselves up in the Netherlands and vice versa.</p>
Poland	<p>Neighbouring countries (<b>Belarus, Georgia, Moldova, Russian Federation, Ukraine</b>) have facilitated access. Citizens of the above countries can also undertake work on the basis of a permit issued without the necessity of conducting the so-called "labour market test".</p>
Slovenia	<p>Agreement with <b>Bosnia-Herzegovina</b> which regulates the conditions and procedures of employment of citizens of these countries. The agreement is however not explicitly designed to attract qualified and highly qualified work force, but it does contain some provisions recommended by the Strategy.</p>

# Attracting Highly Qualified and Qualified Third-Country Nationals Estonian National Report

*The following responses have been provided primarily for the purpose of completing a Synthesis Report for the above-titled EMN Focussed Study. The contributing EMN NCPs have provided information that is, to the best of their knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of an EMN NCPs' Member State.*

## Introduction

Aim of this focussed study is to provide an overview of the policy implemented in Estonia and practical measures for attracting highly qualified and qualified third-country nationals. The situation in the Estonian labour market is similar those in other Member States – Estonia is in need of (highly) qualified labour force<sup>1</sup>. As OECD Skills Strategy suggest<sup>2</sup>, Estonia is looking into ways to facilitate the entry of highly skilled migrations.

Estonian immigration policy is based on two notions

- (i) Fostering the arrival, temporary stay and settlement of foreigners if consistent with public interest and to prevent the arrival of foreigners who could endanger the public order or national security.
- (ii) Avoiding the mass inflow of low-skilled foreign workers. Prevent

According to the Government Action Programme 2011-2015 in order to increase the competitiveness of Estonia's economy the Government will create conditions and the environment to attract international students and highly qualified specialists to Estonia. This contributes to the establishment of research and excellence centres in Estonia and helps provide companies with a higher-quality workforce<sup>3</sup>.

In 2012 there were 608 first permits issued for employment purposes. This is almost 48% less than in 2011. While the number of first resident permits issued for employment decreased in 2012, it still makes up 25% of the number of resident permits issued and comes second after family reasons (45%). First residence permits for studying manifest a slight rise in 2012 (424 permits) which is 7% more than in 2011 and makes 17% of the total resident permits issued in 2012<sup>4</sup>. Estonia has one of the highest shares of foreigners in the total population. In 2012 foreigners made up 15.7% of the Estonian population<sup>5</sup>. Total number of third-country nationals in employment in Estonia is approximately 160 000 persons<sup>6</sup>. This makes the proportion of third-country nationals among the employed 14.7%, second after Latvia. This is 3.5 times as EU average (EU-27, 4.1%)<sup>7</sup>.

With the aim of facilitating the arrival of international students and highly qualified workers and ameliorate their reception and integration across-the-board consultations were initiated with social partners in the beginning 2012. Consultations have resulted in significant changes in the Aliens Act with the emphasis on revision and simplifying the regulations regarding arrival of international students and highly-skilled workers. The changes will come into force in September 2013. Consultations regarding reviewing regulations regarding other groups will continue in autumn 2013.

1 Labour demand forecast 2019. Ministry of Economic Affairs and Communications. Tallinn 2012

2 Better Skills, Better Jobs, Better Lives. A strategic Approach to skills policies. OECD, 2012.  
<http://skills.oecd.org/documents/OECDSkillsStrategyFINALENG.pdf>

3 Government of the Republic Action Programme 2011-2015, Order of the Government of the Republic no. 209 5 May 2011, 5e-f.

4 Eurostat. Last accessed 17.10.2013.

5 Eurostat, Migration and migrant population statistics

6 Eurostat, Labour Force Survey

7 Eurostat



# 1. National Policies and Measures

## 1.1. Policies

Attracting highly qualified and qualified foreigners to live and work in Estonia is outlined as a separate goal in the Government Action Plan 2011-2015 in the chapter of Labour Market. The Action Plan states that in order to increase the competitiveness of Estonian economy the Government will create conditions and the environment to attract international students and highly qualified specialists to Estonia<sup>8</sup>. This goal is targeted at both, citizens of other EU Member State and third-country nationals. There is no comprehensive policy document on policy and measures aimed at attracting highly qualified and qualified third-country nationals. The relevant regulation and requirements are included in the Aliens Act<sup>9</sup>. In 2012 extensive consultations were held with all relevant social partners to make the regulations more flexible to make the arrival conditions for qualified workers smoother. The amendments specified groups with low risk of abuse and violation of the admission system (e.g. international students, researchers, scientists and entrepreneurs) and provided them with an opportunity to come to Estonia on the basis of a visa (e.g. short-term employment regulation) and if the employer and employee have mutual interest for more long-term employment then these groups (and their family members) have the right to submit their resident permit applications in Estonia.

Ministry of Economic Affairs and Communications is also working on Entrepreneurship Growth Strategy for the new programming period 2014-2020, which also emphasises the importance of attracting the (highly) qualified workers to Estonia. The state sponsors partially the employment of (highly) qualified workers with international (professional) experience since 2008. The development employee grant scheme is managed by Enterprise Estonia<sup>10</sup>. Under this scheme companies can employ highly qualified workers – e.g. researchers, engineers, designers, sales directors and managers etc. and apply for the partial compensation of their salaries depending on the profile of the employee (from 50%-70% of the salary of the employee) for up to 26 months. In 2007, an internationalisation strategy for Estonian higher education institutions 2006-2015<sup>11</sup> was adopted under the auspices of Ministry of Education and Research. The strategy outlines the main activities with the aim to improve the competitiveness of Estonian higher education in the international higher education area, in order to make the higher education system in Estonia more open and visible. The strategy includes measures to facilitate (i) the creation of a supportive legal environment; (ii) the internationalisation of teaching; and (iii) the development of a support system for internationalisation. The goals of the strategy for 2015 include increasing the number of international students (mostly on master and PhD level, also post-doctoral students); increasing the number of Estonian students who participate in exchange programmes; increasing the number international professors among permanent teaching staff.

8 Government of the Republic Action Programme 2011-2015, Order of the Government of the Republic no. 209 5 May 2011, 5e.

9 Aliens Act RT I 2010

10 Enterprise Estonia is a state initiated foundation under the auspices of Ministry of Economic Affairs and Communication. Enterprise Estonia promotes business and regional policy in Estonia and is one of the largest institutions within the national support system for entrepreneurship, providing financial assistance, counselling, cooperation opportunities and training for entrepreneurs, research institutions, the public and non-profit sectors. For more information please see <http://www.eas.ee/en/eas/overview>.

11 For more information in English please see <http://www.kslll.net/PoliciesAndAchievements/ExampleDetails.cfm?id=131>. For more details please see <http://www.hm.ee/index.php?popup=download&id=10496>.

In 2009 Estonian Chamber of Commerce and Industry initiated *Bring Talent Home programme* (Talendid koju) which was aimed to give Estonian exporters access to Estonians who study abroad or work there as qualified and skilled professionals. The programme lasted till 2012 and was supported by European Social Fund. The programme included development of the Estonians who live and study abroad, who have international work experience and who had agreed to cooperate with Estonian companies either after they return to Estonia or during their residence abroad. The website ([www.talendidkoju.ee](http://www.talendidkoju.ee)) was used as job market tool, where companies could for free advertise job vacancies, traineeship or summer jobs. By the end of the programme over 20 000 people, who were at the time studying abroad or were working abroad, were contacted through the database. The Internet database had 1000 registered users. The direct contact was reached with 2500 people from Estonia who had been studying abroad. They were *matched* with 2500 companies who were looking for (highly) qualified workers. 500 staff competitions were advertised on the website as a result of which 27 persons were assisted to move back to Estonia<sup>12</sup>. One of the main conclusions of the programme was that inviting and assisting people to settle in Estonia needs more systematic approach. Therefore, it has been proposed that the Ministry of Economic Affairs and Communications should take over the coordinating responsibility of so called *talent politics* (attracting highly qualified worker). The proposal is included in the draft document for Entrepreneurship Growth Strategy 2014-2020 mentioned above.

Currently there is no definition of highly qualified foreigners/third-country nationals is currently provided by national legislation. Estonian policy does not distinguish between highly qualified and qualified third-country nationals. The term "top specialist/senior specialist" will be added to the Aliens Act as a result of the amendments that will come into force September 1<sup>st</sup> 2013. The proposed definition is the following:

*Senior or top specialist is a foreigner who has professional training or experience in any area of activity, whose employer is registered in Estonia and has agreed to pay the foreigner at least the latest annual average wages in Estonia published by Statistics Estonia, multiplied by the coefficient 2.*

Currently, the salary threshold has the coefficient 1.24 of the annual average gross monthly salary, as last published by Statistics Estonia. This applies to experts, advisors and consultants<sup>13</sup>.

The EU Blue card holder's general salary threshold is 1.5 of the annual average gross monthly salary, as last published by Statistics Estonia<sup>14</sup>. The EU Blue card holders being employed as

1. a senior specialist or a supervisor;
2. a senior specialist in natural or technical science;
3. a senior specialist in health service;
4. a specialist in pedagogics;
5. a specialist in business or administration;
6. a specialist in information or communication or
7. specialist in legal, cultural or social sphere

12 Results of the Bring Talent Home Programme <http://valitsus.ee/UserFiles/valitsus/et/riigikantselai/strateegia/poliitika-analuusid-ja-uuringud/tarkade-otsuste-fondi-strateegiliste-arendusprojektide/Talendid%20koju%20projekti%20l%C3%BChikokkuv%C3%B5te.pdf>

13 Aliens Act RT I 2010, §107.

14 Aliens Act RT I 2010, §1907

have somewhat lower salary threshold (coefficient 1.24 of the annual average gross monthly salary, as last published by Statistics Estonia).

Thus far, Estonian policy has not addressed the aspect of brain drain nor the brain circulation with the countries of origin. Estonian migration policy does not focus on specific third countries and has not entered into labour migration agreements that would foster attracting highly qualified third-country nationals to Estonia.

## 1.2. Employer-Led System<sup>15</sup>

Estonia employs job-based recruitment system that gives employers the possibility to hire foreigners on the basis of the needs of the company. Thus the need for foreign labour is decided by the employers and not the state. The state can influence immigration through the immigration quota. This system allows entrepreneurs to flexibly identify labour shortages in certain positions or sectors and employ the labour force from Estonia or abroad accordingly.

Additionally, in general employers are required to gain the permission from the Estonian Unemployment Insurance Fund before employing the third-country national, following the public competition (so-called labour market test). It is mandatory to publicise the position and look for the worker in Estonia and the EU. If the position is not filled as a result of the public competition within three weeks, the employer is allowed to seek for workers from outside of the EU. However, as of June 2011, the employers are exempt from applying for Unemployment Insurance Fund permission when renewing or extending the residence permit of the foreigner<sup>16</sup>. There are also certain professions that are exempt from the permission<sup>17</sup>, some of which could be classified as requiring (higher) qualification – e.g. teachers, lecturer and researchers, working as an expert and consultant, employment for the purposes of performing directing or supervisory functions of a legal person (e.g. management or supervisory boards of private companies) governed by public law registered in Estonia. Other groups included in the exemption are ministers and clerics (includes monks and nuns), journalists accredited to Estonia, posted workers, athletes and their instructors (sportsmen, coaches, referees); persons engaged in creative activities who work in a performing arts institution for the purposes of the Performing Arts Institutions Act.

With the changes of the Aliens Act coming into force in September 2013, temporary employment positions will no longer be required to organise public competition for three weeks and making use of the services of a state employment agency before the position can be filled with a third-country national. The permission will from now on be based on the assessment of the labour force and market situation by the Estonian Unemployment Insurance Fund<sup>18</sup>.

15 I.e. a system that allows employers to select the workers they need, subject to, government regulations. Definition from: <http://www.migrationpolicy.org/pubs/rethinkingpointssystem.pdf>

16 Aliens Act §177, RT I 2010, 3, 4 [came into force 01.10.2010]

17 Aliens Act § 181, RT I 2010, 3, 4 [came into force 01.10.2010]

18 The employer will be able to submit for a permission to fill a position by employing a third-country national without prior public competition. Upon giving authorisation Estonian Unemployment Insurance Fund will perform search for suitable worker in the national database of registered unemployment.

### 1.3. Forecasting the Need for Highly Qualified Labour Force

In Estonia long-term the employment and labour demand needs are reflected in the *Labour demand forecasts*<sup>19</sup> conducted by the Ministry of Economic Affairs and Communications. In addition to the employment rate, the estimations assess the need for additional labour force. According to the Forecast 2019 Estonia will need approximately 27,400 top specialists by the year 2019 (e.g. 3400 specialist per year). Additionally, the forecast includes predictions on people leaving labour force (retirement, mortality) and movement between sectors. The estimations for labour demand are given by areas of activity, professions and levels of education. The forecast is based on the data of the labour force surveys (provided by Statistics Estonia) and the data of declared social tax (provided by Estonian Tax and Customs Board).

There are several regular analyses on Estonia's economic performance based on employers' estimations that have also highlighted the demand for highly qualified foreign labour. Unemployment Insurance Fund conducts survey on the *Need for Foreign Labour*<sup>20</sup> among the employers every three years. Last survey was carried out in 2011 and outlined remarkable increase in the employers' estimations for the need in highly qualified labour force in Estonia in the coming five years.

Estonian Institute of Economic Research carries out annual appraisal of Estonia's international economic competitiveness<sup>21</sup>. In addition an overview of Estonia's position in the world competitiveness scoreboard<sup>22</sup>, the appraisal summarises the employers' assessment of Estonia's business environment. The appraisal has through several years outlined the demand and shortage of highly qualified workers in Estonia. Even during the time of acute economic crises and elevated unemployment the employers in Estonia regarded the availability of highly qualified employees low. Employers also deemed the attractiveness of Estonian business environment low for international highly qualified workers.

### 1.4. Impact of the EU Directives

Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment allows to temporary unemployment during the period of validity of an EU Blue Card (unemployed once for up to three months)<sup>23</sup>.

### 1.5. Public Debate and Consultations

In 2012 wide-ranging consultation with relevant line ministries and social partners and stakeholders in preparation of amendments to the Aliens Act regarding attracting (highly) qualified third-country nationals and international students and researchers to Estonia. In general immigration related issues are not widely discussed in the public media, nor have they been part of

19 The latest estimations can be found in Labour demand forecast 2019.

20 The Need for Foreign Labour. Estonian Unemployment Fund 2011. For more details please see [http://www.tootukassa.ee/public/\\_Aruanne\\_2011\\_2605.pdf](http://www.tootukassa.ee/public/_Aruanne_2011_2605.pdf)

21 International Competitiveness of Estonia, Estonian Institute of Economic Research 2012. For more details please see [http://www.ki.ee/publikatsioonid/valmis/Eesti\\_rahvusvaheline\\_konkurentsivoime\\_Aastaraamat\\_2012.pdf](http://www.ki.ee/publikatsioonid/valmis/Eesti_rahvusvaheline_konkurentsivoime_Aastaraamat_2012.pdf).

22 The scoreboard is put together by World Competitiveness Centre at the International Institute for Management Development. For more details please see <https://www.worldcompetitiveness.com/OnLine/App/Index.htm>

23 Aliens Act § 1909, RT I 2010, 3, 4 [came into force 01.10.2010]

election debates<sup>24</sup>. The debate and consultation in 2012 was first of its kind and was highly appreciated by the stakeholders. They also have high expectation for the continuation of the consultations in the autumn 2013. Some of the changes proposed by social partners – e.g. simplified procedure of application, allowing applying for resident permits in Estonia following short-term registered stay were included in the amendments.

Government ministers directly responsible the areas the amendments of the Aliens Act are referring to – the Minister of the Interior, Minister of Economic Affairs and Communications and the Minister of Education of Research presented and explained the main reasons for making the changes and also introduced the main alterations in the legislation<sup>25</sup>. Main employers organisations –e.g. Estonian Chamber of Commerce and Industry<sup>26</sup> have welcomed the much needed amendments, however they have also outlined that first step has been taken and further changes were needed (according to Estonian Development Fund<sup>27</sup>) in order to meet the society's needs and goals the government has set to attract (highly) qualified workers.

The stakeholders involved in the Aliens Act consultations were relevant line ministries and authorities – Ministry of Economic Affairs and Communications, Ministry of Education and Research, Ministry of Foreign Affairs, Ministry of Culture, Ministry of Social Affairs; Police and Border Guard Board, Estonian Internal Security Service, Estonian Tax and Customs Board, Estonian Health Insurance Fund. Representatives of employers' organisations, trade unions and universities were also involved – Estonian Employers' Confederation, Estonian Trade Union Confederation, Estonian Chamber of Commerce and Industry, Estonian Service Industry Association, American Chamber of Commerce in Estonia, Finance Estonia, Estonian Rectors' Conference, Estonian Rectors' Conference of Universities of Applied Sciences, University of Tartu, Tallinn Technical University, Tallinn University, Estonia of Life Sciences, Estonian Academy of Arts, Estonian Music and Theatre Academy, Estonian Business School, Tallinn University of Applied Sciences, Archimedes Foundation, Estonian Research Council, Estonian Development Fund, Erasmus Student Network.

## 1.6. Measures for Attracting Highly Qualified Workers

### *Exemption from the Immigration Quota*

The (highly) qualified third-country nationals fall under general immigration quota established annually by the Government of the Republic (the maximum allowed by the law is 0.1% of the permanent population)<sup>28</sup>. In 2011 and 2012 established 1,008 persons as the immigration quota, which accounted for 0.075% of the permanent population of Estonia<sup>29</sup>. In 2012 the quota was not exhausted, it was used up for 58%<sup>30</sup>. The groups exempt from quota are: third country nationals coming to study in Estonia, researchers<sup>31</sup>. The EU Blue card applicants are included in the quota requirement.

24 Migration and Asylum Policy 2011–Estonian Report. Academy of Security Sciences EMN Estonian Contact Point, Tallinn 2012, [www.sisekaitse.ee/erv](http://www.sisekaitse.ee/erv)

25 Ministers: Estonia open to Talent, Postimees 11.04.2013

26 Estonian Chamber of Commerce and Industry News Letter <http://www.koda.ee/index.php?id=10558>

27 Editorial of Postimees, 11.04.2013, <http://arvamus.postimees.ee/1198638/juhtkiri-aeg-matta-malestus-umbkeelsest-ehitajast/>

28 Aliens Act § 113, RT I 2010, 3, 4 [came into force 01.10.2010]

29 Explanatory Memorandum to the Draft Decree of the Government of the Republic "Establishing the immigration quota for 2013.

30 Explanatory Memorandum to the Draft Decree of the Government of the Republic "Establishing the immigration quota for 2013.

31 Aliens Act § 115, RT I 2010, 3, 4 [came into force 01.10.2010]

With the recent amendments coming to force in September 2013, the list of groups exempt from the quota will be broadened – e.g. international students after they have completed their studies want to remain in Estonia for work. People coming to Estonia for family reasons (e.g. spouses, children, grandchildren and grandparents) are already exempt from the quota.

### *Support for Family-Reunification*

People coming to Estonia for family reasons (e.g. spouses, children, grandchildren and grandparents) are exempt from the quota.

With the new amendments to the Aliens Act coming into force in September 2013 the (highly) qualified third-country national workers have the right to bring their immediate family with them to Estonia, while for prior residence of a spouse in Estonia for at least two years shall not be applied<sup>32</sup>.

### *Fast-Tracking Procedure*

#### **Registration of Employment**

Previously, the third-country nationals were obliged to register their employment at Police and Border Guard Board before starting short-term temporary employment in Estonia<sup>33</sup>. The simplified registration procedure allows the person to start working on the same calendaric day as the Police and Border Guard Board receives the notification of registration and the assessment of the legality of the employment will be carried out after the person has started working in Estonia. This will apply to teachers or lecturers in an educational institution, researchers and senior specialist who appropriate professional training or experience for such activities<sup>34</sup>.

#### **Exemption from the Permission of the Estonian Unemployment Fund**

There will also be fast-tracking procedure regarding temporary employment. Temporary employment positions will no longer be required to organise public competition for three weeks and making use of the services of a state employment agency before the position can be filled with a third-country national.

The requirement for separate permission by the Unemployment Insurance Fund will also be waived for third-country nationals who have obtained their Bachelors, Master of Doctoral degree in Estonia<sup>35</sup>. Senior specialist will also be exempt from the Estonian Unemployment Insurance Fund's permission<sup>36</sup> if the (private) company where he or she will be working has been registered in Estonia for at least 12 months and the company has the capital in the amount of at least 65,000 euros, which is invested in business activity in Estonia or the company's sales revenue is at least 200,000 euros per year or the social tax paid in Estonia monthly for the persons employed by the company equals at least with the social tax paid in Estonia monthly on the remuneration equalling fivefold Estonian annual average gross wages. The remuneration requirement for senior specialists who are exempt from the Unemployment Insurance Fund's permission is at least the latest annual average wages in Estonia published by Statistics Estonia, multiplied by the coefficient 2<sup>37</sup>.

32 Aliens Act § 137, RT I 2010, 3, 4 [came into force 01.10.2010]

33 Aliens Act § 60, section 4, RT I 2010, 3, 4 [came into force 01.10.2010]

34 Aliens Act §1071, RT I 2010, 3, 4 [came into force 01.10.2010]

35 Aliens Act §181, they are also exempt from the salary clause (Aliens Act §178) RT I 2010, 3, 4 [came into force 01.10.2010].

36 Aliens Act § 181, RT I 2010, 3, 4 [came into force 01.10.2010]

37 Aliens Act §178, RT I 2010, 3, 4 [came into force 01.10.2010]

## Fostering Investments

The amendments will also introduce a simplified procedure for encouraging investments and supporting “start-ups” who will be exempt from the 12 months registration period. The (highly) qualified third-country national workers will be exempt from the Unemployment Insurance Fund’s permission, if she or he is applying for a resident permit for work at the company that has been registered in Estonia less than 12 months if the company has received an investment from the state or private fund with a Financial Supervision Authority’s licence; a loan or support from other national measures. The applicant must detail the sources of the investment, loan and support to the Police and Border Guard Board.

## Submitting Support Documentation Electronically

With the amendments the (additional) documentation needed for the application and extension of temporary residence permit can be submitted electronically and digitally signed<sup>38</sup>. Previously, if a copy of a document was annexed to the application sent by post, the applicant was required to sign every data-bearing page of the copy, confirming that the copy corresponds to the original document. This will no longer be required.

## Applying for Residence Permit in Estonia

According to the current regulation a visa that is issued for short-term employment in Estonia shall be formalised as a long-stay visa<sup>39</sup>. D-type visas are only issued by Estonian foreign representations<sup>40</sup> therefore the accessibility for temporary and short-term employment (but also studying and doing research in Estonia) is somewhat hindered due to limited network of Estonian foreign representations, which will not be remarkably widened in the near future.

Another major aim of the amendments is to simplify application procedure for the international students and researchers. Previously, separate work permits are issued only to international students (with temporary resident permits for studying)<sup>41</sup>. With the transposition of the Directive 2011/98/EU<sup>42</sup> the work permit requirement will be dropped. International students will be allowed to work without a separate work permit, provided that it does not interfere with their studying. The amendments also provide international students<sup>43</sup> (e.g. should they decide to stay in Estonia after they have finished their studies), lecturers, researchers and (highly) skilled workers with the possibility to apply for the resident permit while already in Estonia. This right is extended to their family members as well. It is part of the modification to the general procedure according to which third-country nationals who have registered their temporary employment are allowed to apply for residence permit at the Police and Border Guard Board. According to the amendments the third-

38 Government Regulation of June 30 2010 no. 88 on Procedure for application for, issue, extension and revocation of temporary residence permit and procedure for application for, issue, restoration and revocation of long-term residence permit and establishment of format for long-term residence permit RT I 2010, 48, 293, Article 2 section 51 [came into force 01.10.2010]

39 Aliens Act §110, RT I 2010, 3, 4 [came into force 01.10.2010]

40 [http://www.vm.ee/sites/default/files/Eesti\\_esindatus\\_2015\\_ja\\_2015+.pdf](http://www.vm.ee/sites/default/files/Eesti_esindatus_2015_ja_2015+.pdf)

41 Aliens Act §260, RT I 2010, 3, 4 [came into force 01.10.2010]

42 Council Directive 2011/98/EU of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State

43 This includes Masters and PhD students (Aliens Act §216, section 1 clause 14) and Bachelor level students, who are studying in Estonia as a part of international cooperation programme, international cooperation agreements between universities or is a recipient of Estonian state-funded or internationally recognised scholarship (Aliens Act §216, section 1 clause 24)



country nationals working as teachers and lecturers or researchers are not required submit documents certifying the applicant's qualification in the area of specialisation when applying for residence permit<sup>44</sup>. They are still required to submit an invitation from the educational institution and a copy of the hosting agreement concluded between the research institution and the applicant.

## 1.7. Integration Measures targeted at Highly Qualified Third-Country Nationals

Currently, in Estonia, it is not obligatory for newly arrived migrants to take part in accommodation courses or introduction activities. The programme and courses were initiated by the Integration and Migration Foundation Our People in 2009 and are financed from the European Integration Fund<sup>45</sup>.

With the recent changes to the Aliens Act, a new article has been added<sup>46</sup> which allows the Police and Border Guard Board to allocate third-country nationals to introduction programmes when they are applying or renewing their permits. The regulation will come into effect in after the programme has been devised. The introduction programme for third-country nationals is an activity plan for supporting the integration of the recently arrived immigrants that includes basic course on Estonian state, society, culture coupled with specialised modules corresponding to different target groups (senior specialists, international students, entrepreneurs and their family members). In parallel with the introduction courses language courses will be offered. Introduction programme will consists of different courses depending on specific needs and language skills of the foreigner. The aim of the introduction programme is to support the adjustment of the recent arrivals by providing them with the necessary and relevant information on organisation of daily life (registering the place of residence, finding a nursery, kindergarten or a school place for children, social benefits etc. ) in Estonia at the earliest stage possible.

With the new amendment highly qualified third-country nationals<sup>47</sup> are provided family reunification rights (includes spouses and children) without prior residence requirement<sup>48</sup>. Equal Treatment Act came into force in 2008. The Act provides protection against discrimination on the grounds of national origin (ethnic origin), race, colour, religion or other beliefs, age, disability, sexual orientation.

However, there are no tax incentives in Estonia for highly qualified third-country national workers. Social security and other welfare benefits are the same for all residents (after they have been granted permission to stay in Estonia)<sup>49</sup>.

44 Government Regulation of June 30 2010 no. 88 on Procedure for application for, issue, extension and revocation of temporary residence permit and procedure for application for, issue, restoration and revocation of long-term residence permit and establishment of format for long-term residence permit RT I 2010, 48, 293, Article 13 section 5, clauses 5 and 6 [01.10.2010]

45 <http://www.meis.ee/kohanemisprogramm>

46 Aliens Act §1211, RT I 2010, 3, 4 [came into force 01.10.2010]

47 Refers to teachers, lecturer, scientist, researchers and senior specialists

48 Aliens Act §137, RT I 2010, 3, 4 [came into force 01.10.2010]

49 E.g. Constitution §28 and § 37. RT 1992, 26, 349 [came in to force 03.07.1992]; State Pension Insurance Act §4, RT I 2001, 100, 648 [came into force 01.01.2002]; State Family Benefits Act §2, RT I 2001, 95, 587 [came into force 01.01.2002]; Maintenance Allowance Act §2, RT I 2007, 25, 130 [came into force 1.01.2008]; Labour Market Services and Benefits Act §3, RT I 2005, 54, 430 [came into force 01.01.2006], Social Welfare Act §4, RT I 1995, 21, 323, [came into force 01.04.1995]



## 2. Evaluation and Effectiveness of Measures

### 2.1. Statistics

*The statistical tables are provided in the annex 1. Please note that due to the small size of the sample in Estonia, the reliability of statistics provided by Eurostat is occasionally low and estimations are given.*

The number of third-country nationals employed and self-employed in Estonia in the relevant ISCO groups (i.e. those related to qualified and highly qualified employment according to national definitions) over the last 5 years aggregated by sex and age group – *the numbers are provided for employed third-country nationals, there is no reliable data on self-employed third-country nationals in Estonia.*

The number of third-country nationals employed and self-employed in Estonia over the last 5 years aggregated by relevant ISCED level of education (i.e. those associated with qualified and highly qualified employment according to national definitions), sex and age group – *the numbers are provided for employed third-country nationals, there is no reliable data on self-employed third-country nationals in Estonia.*

- The number of first residence permits issued for relevant reasons (e.g. highly skilled workers, EU Blue Card) over the past 5 years aggregated by sex and age group.
- It should be noted that when analysing the data on employment of third-country nationals by ISCO and ISCED classification, the figures include also non-citizens, who are third-country nationals in the context of the legislation of the EU, but at the same time they are considered as permanent residents of Estonia and also long-term third-country nationals (mainly Russian Federation citizens), who are not economic migrants and are the object of the study.

Total number of third-country nationals in employment in Estonia is approximately 160 000 persons<sup>50</sup> (14.7% of the employed). The number of third-country nationals in high-skilled occupations has been stable in Estonia in the past five year ranging from 17,300 in 2008 to 16,500 in 2012. Due to low reliability of the data available, it is not possible to present the precise breakdown according to the ISCO categorisation, nor for gender or age. In 2012 the estimation for OC 2 –professionals is 5,700 and for OC 3 – Technicians and associate professionals is 8,000. There is no data available for OC1 – Legislators, senior officials and managers (Table 2). According to the estimations for gender break down in 2012, there was a slight male domination (53%, Table 3.) in highly-skilled workers in Estonia. The estimations for age breakdown are only available for the biggest age group which is 45-54 (5,600 persons). This accounts for one third of the highly-skilled workers in Estonia (Table 4.)

The number of highly educated third-country nationals has also been stable in the past five years with a slight decline from 25,100 in 2008 to 22,400 in 2012<sup>51</sup>. According to the data available all of them have ISCED level 5 education (1<sup>st</sup> stage of tertiary education) (Table 5.). The estimations for gender breakdown is also slightly male dominated (52%). The age breakdown estimations are available only for the two eldest age groups 45-54 (8,100 persons) and 55-64 (7,000) (Table 7) which accounts for two thirds of highly-skilled third-country nationals.

<sup>50</sup> Eurostat, Labour Force Survey

<sup>51</sup> Eurostat. Labour Force Survey.

Thus far there have been rather few residence permits for the EU Blue card. The main reason for the modest numbers is most likely the fact that prior to the Directive 2009/50/EC<sup>52</sup> Estonia already had several types of residence permits addressed to highly skilled workers. In addition to the EU Blue Card, Estonia has a residence permit for experts, researchers, business owners and board members of a company. In 2011 there was only one residence permit issued to the EU Blue card holder (female, aged 25-34) (Tables 8-9). In 2012 there were already 16 residence permits issued for EU Blue Card holders. EU Blue card holder are dominated by male applicants (11 out of 16), mostly ages 25-34 (10 out of 16)<sup>53</sup>.

Majority of the EU Blue card holders come from Russian Federation (10 people) and from Ukraine (2 people). Other EU Blue card holders came from Belarus, Moldova, Brazil and Guyana (Table 10). All of 16 EU Blue card were issued to professionals (according to ISCO-08), mostly to health professionals (7 people) and information and communication technology professionals (6 people). Two EU Blue card holders work as science and engineering professionals and one as business and administration professional. In addition 18 resident permits were issued to admitted family members of EU Blue card holders<sup>54</sup>.

## 2.2. Evaluation

So far there is no comprehensive system in Estonia for assessing and evaluating legal provisions and practical measures for attracting (highly) qualified workers from third countries. Ad hoc analysis and evaluations are provided for preparing changes and amendments to legislation (e.g. changes to the Aliens Act)<sup>55</sup>.

Every three years Estonian Unemployment Fund carries out survey among the employers to consider the need of foreign labour in Estonia. The last survey was carried out in 2011<sup>56</sup> and the employers were asked both about the existing experience with foreign labour and also their forecast on the need to bring in workers from abroad in the coming 5 years. When compared to the results of the survey in 2008 the number of employers who asserted the need for (highly) qualified workers had increased remarkably (71% of the respondents; in 2008 it was 44%). Also 83% of the respondents stated that they were contended with the foreign employees they had hired.

In 2011 Estonian Development Fund<sup>57</sup> initiated so called *talent monitoring*<sup>58</sup>. The aim of the monitoring is to analyse the impact of global trends on Estonia's opportunities to be successful in the (global) competition for talent and to offer viable solutions and activities to make Estonia more appealing to highly qualified workers. In addition to scrutinising the challenges of talent shortage, future trends and their impact the monitoring also aspires to develop comprehensive talent policy for Estonia<sup>59</sup>.

52 Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

53 Police and Border Guard Board data

54 Eurostat data. Last accessed 08.08.2013

55 E.g. Explanatory Memorandum to Amendments of the Aliens Act and other related legislations 2013.

56 The Need for Foreign Labour. Estonian Unemployment Fund 2011. For more details please see [http://www.tootukassa.ee/public/\\_Aruanne\\_2011\\_2605.pdf](http://www.tootukassa.ee/public/_Aruanne_2011_2605.pdf)

57 The Estonian Development Fund was established in 2007, by the Riigikogu (Estonian Parliament) with the purpose of initiating and supporting changes in the Estonian economy and society that would accelerate modernisation of our economic structure, lead to growth in exports and contribute to creating new jobs requiring high qualifications. For more details please see <http://www.arengufond.ee/>

58 For more information please see <http://www.arengufond.ee/print.php?view=foresight%2Ftalendiseire>

59 Estonian Development Fund report to the Riigikogu (the Parliament) 2011. For more details please see <http://www.arengufond.ee/upload/Editor/Publikatsioonid/arengufond-raport-riigikogule-2011.pdf>

### 3. Challenges and Barriers

This far separate research on challenges and barriers there has not been carried out. However the main challenges and barriers were however identified in the process of consultation for amendments for the Aliens Act<sup>60</sup>. In order to assist the implementation of the Government Action Programme different stakeholders and partners were invited to bring forward the main challenges of attracting highly qualified workers and international students to Estonia.

The complexity, length and cost of the procedures were identified as the main weaknesses. The current regulation was regarded as not flexible enough to allow people who could bring added-value to Estonia (e.g. workers with relevant skills, (highly) qualified specialists, scientists, researchers, lecturers, masters and doctoral students) to come to Estonia. The challenges also include limited network of foreign representations, which hampers the arrival of workers, weak support system and lack of introduction and accommodation programmes make it difficult and burdensome for employers to bring in relevant work force. For instance the duration and procedures of application for the EU Blue card scheme have not proven to shorten the time of processing applications (mainly due to the longevity assessment of compliance of qualifications), so that many employers have instead decided to apply for regular (announcing the position through the Estonian Unemployment Insurance Fund, and initiating the application at Estonian foreign representation) work/employment permits which takes approximately the same amount of time.

In addition to the lengthy and costly application procedures it was emphasised that more attention is to be turned to developing the support and introduction services in Estonia. At the moment the responsibility of facilitating adaptation and accommodation of recently arrived third-country national workers falls on the employers. While larger companies have through the years established their own new-workers adaptation schemes, it is burdensome to carry this out for small companies bringing in 1 or 2 highly qualified workers, especially bearing in mind that majority of Estonian companies are SME. Here the main challenge is the (small) size of the community (e.g. international students and researchers, recently arrived (qualified and highly qualified) specialist)) to provide self-supported and (expat) community initiated introduction activities and counselling. It was also outlined that Estonia is not widely-known among potential workers. Moreover, Nordic countries surrounding are noticeable more attractive to foreign workers and international students by their living standard than Estonia.

The expectation is that there should be one centrally managed accommodation programme that would include introduction information on daily life in Estonia (e.g. information on schooling, social and medical care, taxation and alike) leaving the employer responsible for professional adaptation. The amendments to the Aliens Act provide for the compilation of the national accommodation programme.

<sup>60</sup> Explanatory Memorandum to Amendments of the Aliens Act and other related legislations 2013.

In 2012, under the auspices of EXPAT project<sup>61</sup> a survey was carried out to find out the expats'<sup>62</sup> current satisfaction with the available services as well as their quality of life in the current country of residence. The EXPAT project addresses the factors that hinder the expats' smooth arrival and good quality of life in the Central Baltic Sea Region. The survey covered topics such as the quality and availability of public sector services, availability of information, perceived level of security, and other social needs. The respondents outlined that in case of Estonia it has been difficult to understand how several public sector services (e.g. how to get personal identification and social security number, use of the health care system in general, finding appropriate child-care and school etc.) function. Furthermore it was mentioned that it is rather hard to find friends in the country of residence (in this case Estonia – e.g. few possibilities to meet the locals) and there is little information about leisure and possibilities to organise one's hobbies. It was also suggested by the respondents that there should be more opportunities to learn about Estonian history and customs. Estonia was, however praised for simple and straightforward regulation for setting up a company.

## 4. Conclusions

Similarly to other Member States Estonia is seeking ways to attract (highly) qualified workers to come and settle in Estonia. This goal has also been identified on the highest political level and is included in the Government Action Programme.

When compared to public debates and consultations in the field of immigration in general and attracting (highly) qualified third-country nationals in specific there has not been wide-ranging discussion on these topics. 2012 saw the first comprehensive involvement of major relevant stakeholders (employers' associations, trade unions and higher education institutions) in the process of preparing changes to the Aliens Act. Numerous shortcomings were outlined in the discussions. The main areas in need for improvement were identified as reducing bureaucracy in the process of application and developing better support service system in Estonia for recently arrived third-country nationals and their family members.

Several of the proposals – simplification of procedures of application for (highly) qualified third-country nationals and international students and researchers, extending simplified application procedures to their family members were introduced as amendments to the Aliens Act coming into force in September 2013. There are also regulations relating to other groups (e.g. investors, entrepreneurs) that were brought up. Consultations regarding these groups will continue in autumn 2013.

Estonia does not yet have comprehensive evaluation system to assess the impact and effectiveness of legal provisions and practical measures for attracting (highly) qualified workers from third countries. Ad hoc analysis and evaluations are provided for preparing changes and amendments to legislation (e.g. changes to the Aliens Act).

61 EXPAT is European Union Interreg IVA Central Baltic Sea Region -funded project. The aim of the project is to make the Central Baltic Sea Region a more attractive destination and a more welcoming region to settle in highly qualified international workers. For more information please see <http://www.expatriationproject.info/>

62 Expatriation in this project refers to all foreigners living in partner cities (Tallinn and Tartu in case of Estonia), in addition to third-country nationals it includes also other EU nationals.

# ANNEX 1.

**TABLE 1.** *First Residence Permits by Reason*

Reason	2008	2009	2010	2011	2012
Family	1 402	1 148	972	1 289	1 150
Employment	967	1 135	769	1 258	608
Studying	339	383	399	395	424
Other	1 176	1 111	507	466	348
<b>Total</b>	<b>3 884</b>	<b>3 777</b>	<b>2 647</b>	<b>3 408</b>	<b>2 530</b>

Source: Eurostat. Last accessed 17.10.2013

**TABLE 2.** *Employment of Third-Country Nationals in high-skilled occupations (1 000)*

Occupation according to ISCO categorisation	2008	2009	2010	2011	2012
OC1 Legislators, senior officials and managers	6.7 (e)	:	:	:	:
OC 2 Professionals	5.3 (e)	7.5 (e)	7.3 (e)	5.6 (e)	5.7 (e)
OC 3 Technicians and associate professionals	5.3 (e)	6.1 (e)	:	6.6 (e)	8 (e)
<b>Total</b>	<b>17,3</b>	<b>18,3</b>	<b>17,3</b>	<b>15,0</b>	<b>16,5</b>

Source: Eurostat; e- estimation; : no data available

**TABLE 3.** *Employment of Third-Country Nationals in high-skilled occupations and sex (1 000)*

Sex	2008	2009	2010	2011	2012
Male	9.3 (e)	8.8 (e)	8.1 (e)	7.9 (e)	8.7 (e)
Female	8 (e)	9.5 (e)	9.2 (e)	7.1 (e)	7.8 (e)
<b>Total</b>	<b>17,3</b>	<b>18,3</b>	<b>17,3</b>	<b>15,0</b>	<b>16,5</b>

Source: Eurostat; e- estimation

**TABLE 4.** *Employment of Third-Country Nationals in high-skilled occupations and age (1 000)*

Age breakdown	2008	2009	2010	2011	2012
25-34	:	:	:	:	:
35-44	:	:	:	:	:
45-54	7 (e)	7.3 (e)	7.7 (e)	:	5.6 (e)
55-64	:	:	:	:	:
<b>Total</b>	<b>17,3</b>	<b>18,3</b>	<b>17,3</b>	<b>15</b>	<b>16,5</b>

Source: Eurostat; e- estimation; : no data available

**TABLE 5.** *Employment of highly educated Third-Country Nationals (1 000)*

Level of education according to ISCED categorisation	2008	2009	2010	2011	2012
First stage of tertiary education (ISCED level 5)	25,1	26,4	22,0	22,2	22,4
Second stage of tertiary education (ISCED level 6)	0,0	0,0	0,0	:	:
<b>Total</b>	<b>25,1</b>	<b>26,4</b>	<b>22,0</b>	<b>22,2</b>	<b>22,4</b>

Source: Eurostat

**TABLE 6.** *Employment of highly educated Third-Country Nationals by sex (1 000)*

Sex	2008	2009	2010	2011	2012
Male	12,4	11.7 (u)	8.7 (u)	11.4 (u)	11.7 (u)
Female	12,7	14,6	13,2	10.8 (u)	10.7 (u)
<b>Total</b>	<b>25,1</b>	<b>26,4</b>	<b>22</b>	<b>22,2</b>	<b>22,4</b>

Source: Eurostat

**TABLE 7.** *Employment of highly educated Third-Country Nationals by age (1 000)*

Age breakdown	2008	2009	2010	2011	2012
25-34	:	:	:	:	:
35-44	:	:	:	:	:
45-54	11.1 (u)	11.6 (u)	9.1 (u)	8.4 (u)	8.1 (u)
55-64	6.8 (u)	7.3 (u)	6.5 (u)	6.7 (u)	7 (u)
<b>Total</b>	<b>25,1</b>	<b>26,4</b>	<b>22</b>	<b>22,2</b>	<b>22,4</b>

Source: Eurostat

**TABLE 8.** *EU Blue Card issued 2011-2012 by sex*

Sex	2011	2012
Male		11
Female	1	5
<b>Total</b>	<b>1</b>	<b>16</b>

Source: Police and Border Guard Board

**TABLE 9.** *EU Blue Card issued in 2011- 2012 by age*

Age breakdown	2011	2012
25-34	1	10
35-44		5
45-54		1
55-64		
<b>Total</b>	<b>1</b>	<b>16</b>

Source: Police and Border Guard Board

**TABLE 10.** *EU Blue Cards issued in 2012 by Citizenship and Occupation*

Citizenship	Occupation				Total
	Science and engineering professionals	Health professionals	Business and administration professionals	Information and communications technology professionals	
Russian Federation	1	4		5	10
Ukraine		2			2
Belarus				1	1
Moldova		1			1
Brazil	1				1
Guyana			1		1
<b>Total</b>	<b>2</b>	<b>7</b>	<b>1</b>	<b>6</b>	<b>16</b>

Source: Eurostat. Last accessed 08.08.2013