

# EMN INFORM

## The application of quotas in EU Member States as a measure for managing labour migration from third countries

### 1. INTRODUCTION

This EMN Inform<sup>1</sup> provides information on the use of quotas<sup>2</sup> by Member States as one of a possible range of measures to manage labour migration from third countries, as well as secondary movements of third country nationals, exercising mobility for the purpose of employment within the EU.

### 2. KEY POINTS TO NOTE

- ★ Member States do apply quotas or limits as measures to manage labour migration from third countries (e.g. **Austria, Estonia, Hungary, Italy, Portugal, Slovenia, United Kingdom** (limits) **Norway**<sup>3</sup>);
- ★ The approach to quotas varies from 'hard caps' (**Austria**) to 'softer targets', which in some cases are not met by the supply of labour (**Hungary, Norway**), and do not therefore appear to have the express intention of **limiting** migration;
- ★ Quota limits may be based on various indicators; a percentage of national labour supply (**Austria,**

**Slovenia**); permanent population (**Estonia**); the number of requests in the previous year (**Hungary**); and labour market assessments (**Italy, Portugal, Slovenia, UK**). In **Norway**, a flat quota rate has applied for skilled workers since 2002;

- ★ Where recent changes in quota levels have been reported, the drivers identified have been in response to the economic downturn (**Italy, Portugal, Slovenia**) and to attract high level skilled workers (**Estonia, Italy**). National debates where reported (**Italy, Portugal**) have balanced interests in protecting national labour markets with concerns about potential skill shortages in some sectors;
- ★ Quotas may be formally agreed with third countries through **bilateral agreements**, for example, in **Bulgaria, Germany and Italy**;
- ★ Mobile Third Country Nationals employed in one Member State and seeking to move to a second Member State are likely to be **subject to quotas for all third country nationals if applied in the Member State of destination**. This is not always the case for some categories of third country nationals whose mobility is provided for through the EU acquis, for example, EU Blue Card holders, in some Member States.

<sup>1</sup> Information sources include: the EMN Studies *Satisfying Labour Demand through migration (2010)*; *Intra-EU mobility of third-country nationals (2013)* and EMN Annual Policy Reports 2010, 2011 and 2012.

<sup>2</sup> The EMN Glossary defines a quota as 'a quantitative restriction in the migration or asylum context. Many countries establish quotas, or caps, on the number of migrants to be admitted each year'

<sup>3</sup> Where Member States (and Norway) are listed, the list is not necessarily exhaustive.

### 3. MANAGING MIGRATION FROM THIRD COUNTRIES FOR LABOUR DEMAND

#### 3.1 Overview

In order to identify and manage labour demand, Member States apply a number of different and often complementary tools and approaches. These include<sup>4</sup>:

- ★ the drawing up of occupation lists where labour shortages exist (**Austria, Belgium, Finland, France, Germany, Latvia, Lithuania, Poland, Spain, United Kingdom**);
- ★ the use of employers needs analysis (**Austria, Belgium, Bulgaria, Estonia, Germany, Hungary, Ireland, Italy, Lithuania, Luxembourg, Malta, Poland, Slovak Republic, Slovenia, Spain, , Sweden**) to directly analyse the labour needs of the labour market; and
- ★ the setting of quotas (e.g. **Austria, Estonia, Hungary, Italy, Portugal, Slovenia, Norway**) or limits (**United Kingdom**), in order to ensure that the immigration of third-country nationals for reasons of employment does not exceed the demand for labour. Institutional bodies, as well as employers and occupational organisations, play a key role in the implementation of the above methods.

**Quotas** may involve 'hard' annual caps that must not be exceeded (e.g. **Austria**) or can represent 'soft' target levels that represent a guide to numbers of admissions (e.g. **Hungary and Norway**); where these are 'hard,' they can have various political advantages, and may create the perception that the government is 'in control' of immigration<sup>5</sup>. In relation to specific Member States:

- ★ Work permits in **Austria** are subject to annual quota regulations (although only holders of some residence titles are in need of a work permit): the total number of work permits is capped (Federal State quotas) to the extent that the number of employed and unemployed foreigners does not exceed 7% of the total dependent labour supply (260 579 for 2013). In some special cases, work permits can be granted beyond this quota up to a limit of 9% of the labour supply<sup>6</sup>;

- ★ Similarly, **Slovenia** also links work permits to a quota limiting the number of third-country nationals allowed on the labour market annually. It fluctuates from year to year, dependent on conditions of the labour market, but may not exceed 5% of the actively working national population;
- ★ In **Estonia**, the immigration quota of maximum 0.1% of the permanent population is also applicable for labour migration to Estonia. The immigration quota is mostly distributed to third-country nationals applying for residence permits for the purpose of employment. From 2008-2010 the quota of 0.075 per cent of the permanent population of Estonia has been annually set by the Government. However in 2011 the quota was filled by August and the Government exceptionally increased the quota to 0.1 per cent of the permanent population;
- ★ The Minister responsible for the national economy in **Hungary** is responsible for setting the number of work permits to be issued to third-country nationals. The total number of third-country nationals employed with a work permit or EU Blue Card cannot exceed the monthly average of the number of workforce requests filed in the year prior to the referenced year<sup>7</sup>; the maximum number of third-country nationals that may take up employment simultaneously with a work permit or EU Blue Card is 85 000. In 2011 the total number of issued (individual and seasonal agricultural)work permits was 10 556 - considerably lower than the ceiling figure set, which consequently imposes no impediment to the employment of third-country nationals;
- ★ In **Italy**, instructions are prepared on the basis of employment and unemployment rates at national and regional levels. Assessments are carried out by regional and local organisations and associations of entrepreneurs, which form the basis for the Prime Minister and the Ministers involved (mainly Interior and Labour) to produce circulars which divide the global entry quota for work between the Regional Directorates and the autonomous provinces;
- ★ An overall quota is fixed for third-country national workers in **Portugal** every year, based on the annual estimates of the needs of the labour market established by the Cabinet after reports from the Permanent Council for Social Coordination and the *Ministry for Labour and Social Solidarity*;

<sup>4</sup> See also Annex 1

<sup>5</sup> Oxford Review of Economic Policy, Volume 24, Number 3, 2008, pp.403-426

<sup>6</sup> Art.14 Act Governing the Employment of Foreign Nationals

<sup>7</sup> Article 3 of Decree 16/2010 (V. 13.) of the Ministry of Social Affairs and Employment

- ★ In **Slovenia**, the setting of quotas is the **main instrument** of limiting the number of third-country nationals in the labour market. The quota is proposed by the *Minister for Labour* and is set annually taking into account fluctuations and conditions of the labour market. The quota may never exceed 5% per cent of the actively working population in the country, on an annual basis;
- ★ The **United Kingdom** did not establish quotas or limits following the introduction of the 'points based system' (PBS) since it was assumed that the number of points required for entry could be changed as circumstances or policy dictated. However, since the General Election in May 2010, where it was announced that third-country national workers entering through the PBS would be subject to new limits<sup>8</sup>, and an annual limit was introduced in April 2011 of 20 700 for those coming into the United Kingdom under the skilled and highly skilled routes. This limit is composed of 20 700 places under Tier 2 and 1 000 places under a new Tier 1 "exceptional talent" route;
- ★ **Norway** maintains a quota for granting new permits to **skilled labour migrants** from outside the European Economic Area without a labour market test, currently for 5 000 persons per year. The annual maximum quota for new permits has been fixed at 5 000 since 2002, a level that so far has not been exceeded, but note the important reduction in the scope of the quota with the accession of the new EU Member States in 2004<sup>9</sup>.

For **seasonal workers**, in **Austria** and **Italy** the number of work permits issued for seasonal work is subject to quota regulations; in **Italy**, an employer can also apply for a seasonal work permit lasting for a maximum of 3 years and it was for seasonal workers the right to have more than one employer has also recently been recognized. In **Germany**, the Federal Ministry of Labour and Social Affairs issued annual quotas for the employment of seasonal workers; in 2011, this quota amounted to 180 000 persons. Since 1 July 2013, however, quotas are no longer applied to seasonal workers, as hitherto beneficiaries from Bulgaria, Romania, and Croatia now enjoy free movement of labour. For **United Kingdom** a quota applies to seasonal workers from Bulgaria and Romania; in 2009, this was 21 700 (20 700 places under Tier 2 and 1 000 places under Tier 1).

<sup>8</sup> See also the UK Border Agency website: <http://www.ukba.homeoffice.gov.uk/sitecontent/newsfragments/35-t1-t2-annual-limits>

<sup>9</sup> Norway APR (Annex) 2011

### 3.2: Recent changes in quota levels

Change in approaches to quotas at national level, where reported, appear to have arisen from two main drivers: changes in national economies resulting from the **economic downturn**, and also in relation to the desire to attract migrants with **high level skills**. Changes have been reported in several Member States (**Austria, Estonia, Italy, Portugal, Slovenia, Slovak Republic**):

- ★ In **Austria**, the introduction of the Red-White-Red Card for (highly) qualified third-country nationals in July 2011 marked the end of the quota-based approach towards skilled migration. The Red-White-Red Card is issued to several groups of (highly) qualified migrants based on a criteria-led points system.
- ★ In **Estonia**, amendments made to the *Aliens Act* in 2008 were clearly aimed at facilitating (highly) skilled workers to take employment in Estonia. For that purpose, the processing terms for applications for residence permits were shortened (from six months to two months), the immigration quota was **increased** from 0.05% to 0.1% of Estonian population and salary criteria were established for the employers;
- ★ In **Italy**, access to the labour market was granted for short-term workers filling the seasonal quota until the end of 2010 as a result of the economic crisis as well as by a regularization measure launched in 2012 for care-workers. In addition, a new programme was adopted in **Italy** in 2011 in order to address the increased need for highly-qualified workers;
- ★ In **Portugal**, quotas of third-country nationals admitted for the purpose of employment were also reduced;
- ★ In **Slovenia**, while a migrant workforce is used to fill short-term or cyclical shortages in the labour market, the further development of the domestic workforce is prioritised over the use of a migrant workforce; since the economic crisis, access of third-country nationals has been restricted, for example, by reducing the quota from 2009 to 2010;
- ★ **Slovak Republic** *planned* to introduce quotas for some work positions to be assessed, including quotas for certain types of trade licences in 2012; however, these measures have now been postponed.

★ **United Kingdom:** had introduced changes from April 2013 in part to address the issue of attracting highly skilled / qualified migrants. Under Tier 1 (now classed as High-value migrants) a Graduate Entrepreneur category has been introduced with a limit of 2 000 places and the Exceptional Talent category continues to have a limit of 1 000). Under Tier 2 General category a limit of 20 700 for skilled workers with an annual salary below £152 100 (about 181 800 euros) is now in place. Quotas for seasonal workers are still applicable to Bulgarian and Romanian nationals; in 2012 and 2013 this was 21 250 places.

### 3.3: National debate on quotas

Quotas have been the subject of recent **policy debates** in several Member States:

★ In **Italy**, every three years, a "*long-term programme on immigration policy and foreigners on State territory*" is prepared, which sets out the policies on immigration. Each year a quota for incoming migrants is set in the "Flows Decree". The Government's decision **not** to set quotas for economic migrants in 2009 was met with much criticism and debate. The Government argued that for some years the economic crisis had caused high unemployment rates and that third country nationals already living in Italy had to be prioritised until absorbed into the labour force, when quotas will be set again albeit to a more limited extent.<sup>10</sup> However, opponents to the decision argued that this created inflexibility in the skills-base of the migrant community, particularly in the care-sector;

★ In **Portugal**, intensive debate in 2009 focused on the reduction of quotas for third-country nationals admitted for the purposes of employment due to the economic crisis, with political parties taking contrasting stances on the positive effects of such action.

The process of setting quotas is often undertaken in consultation with stakeholders:

★ In **Italy**, regional authorities have argued for greater future involvement in policy decisions over quotas on migrant workers, as they claim to have a firm knowledge base on the sectors which suffer labour shortages in their regions. At present, together with employers and entrepreneurs, they represent one of the stakeholder groups consulted by the *Ministry of Labour and Social Policy* and the Prime Minister in order to inform the *long-term*

*programme on immigration policy and foreigners on State territory*;

★ In **Portugal**, the collection of opinions from diverse actors has played a prominent role in shaping economic immigration with regard to the setting of quotas, with stakeholders from both national companies and migrant worker groups consulted on the effects of quotas to assist the *Ministry for Labour and Social Solidarity's* reports on this issue.

### 3.4: Cooperation agreements including employment and labour migration

In many cases, quotas are included in bilateral and other agreements concluded with third countries for the purpose of labour migration:

★ In **Germany**, however, only a low percentage of the total admission rate is regulated through quotas. Currently, bilateral agreements are in place with Bosnia and Herzegovina, Macedonia, Serbia, Turkey as well as Bulgaria, Romania, and Croatia (the latter only applicable until the end of 2013 / 30 June 2015, respectively). Based on quota systems, these included agreements on contract workers allowing companies to second their workers to Germany for a limited period of time for the purpose of completing work in cooperation with a German company. There are presently further agreements in place with Albania, Russia, Croatia, Bulgaria, and Romania concerning the employment of guest workers, for up to 18 months, for the purpose of undergoing advanced vocational and language training. These agreements have only been partially utilised in Germany, with only 533 guest worker placements registered in 2011, out of a set quota of 11 050;

★ In **Italy** preferential quotas are assigned to specific categories of third-country workers from countries where bilateral agreements to regulate entry flows for reasons of employment have been / will be concluded (e.g. Republic of Moldova, Morocco and Egypt) and/or signed agreements under procedures for re-admission;

★ **Bulgaria** has a long tradition of concluding bilateral agreements on social security. Such agreements are in force with Russia, Ukraine, Moldova, Canada, Republic of Korea, Israel, FYRO Macedonia, Serbia, Libya, Albania etc. These agreements cover some or all insurance risks for the workers of one country on the territory of the other;

★ Both **Lithuania** and the **Slovak Republic** have entered into bilateral agreements concerning the

<sup>10</sup> Following a prolonged break, the quota was reintroduced in Italy at the end of 2010 with 98 800 new entries.

exchange of youth/trainees. The **Slovak Republic** entered an agreement with Switzerland on the *Exchange of Trainees* in 1995. This agreement provides a quota of 100 persons annually which is filled by young people from the **Slovak Republic**. **Lithuania** entered into an agreement with Canada concerning *Youth exchanges* in 2009. A quota of 200 young citizens from each country may use this scheme annually.

### 3.5: Quotas and mobile third country nationals.

In most Member States, mobile third-country national workers do not receive any notable preferential treatment in comparison to newly arrived third-country nationals and thus must obtain a work permit under the same conditions as third-country nationals coming directly from outside the EU (**Austria, Belgium, Belgium, Estonia, Greece, Finland, France**<sup>11</sup>, **Hungary, Ireland, Italy, Lithuania, Luxembourg, Netherlands, Malta, Sweden, United Kingdom**), subject to a process of labour market testing or to labour market quotas<sup>12</sup>;

However in practice, administrative processes and the resulting granting of work permits to third country nationals show both commonalities and variances across Member States. In some Member States concession are granted, particularly for those third country national's whose mobility is provided for under EU Directives for long term residents and specific categories of workers;

In particular, exemptions apply to particular highly skilled / qualified workers (e.g. in **Belgium** (where income level is also taken into account), **France, Cyprus, Finland, Poland**), or personnel in foreign companies (**Cyprus**). In **Finland, France** and **Poland**, for example, highly qualified third country national workers holding an EU Blue Card are exempt from a labour market test.

### Bibliography

EMN Study: Intra-EU mobility of third-country nationals (2013): Synthesis Report plus national Reports;

<sup>11</sup> In France, with the exception of EU Blue card workers, workers posted in the context of intra-corporate mobility holding a temporary "employee on assignment" residence permit and third-country nationals already residents of another EU Member State providing temporary services in France for an employer based in another EU Member State, mobile third-country nationals are subject to a labour market test.

<sup>12</sup> Synthesis Report for EMN Study on Intra-EU Mobility of Third-Country Nationals (2013)

EMN Study: Satisfying labour Demand through Migration (2010): Synthesis Report plus national Reports;

EMN Annual Policy Reports 2010, 2011 and 2012;

Oxford Review of Economic Policy, Volume 24, Number 3, 2008, pp.403-426.

### ANNEX 1:

Approaches used by Member States (and Norway) to identify and manage labour demand from third countries:

Method	Occupation list	Employer needs analysis	Quote / limit setting
Austria	X	X	X
Belgium	X	X	
Bulgaria		X	
Estonia		X	X
Finland	X		
France	X		
Germany	X	X	
Hungary		X	X
Ireland		X	
Italy		X	X
Latvia	X		
Lithuania	X	X	
Luxembourg		X <sup>13</sup>	
Malta		X	
Netherlands			
Poland	X	X	
Portugal			X
Slovak Republic <sup>14</sup>		X	
Slovenia		X	X
Spain	X	X	
Sweden		X	
UK	X		X
Norway			X

Source: EMN 2010 Study *Satisfying Labour Demand through migration*

<sup>13</sup> Subject to labour market test if not highly qualified

<sup>14</sup> The demand for specific skilled labour is solved on an ad-hoc basis by the employers themselves rather than systematically