



ESTONIAN ACADEMY OF SECURITY SCIENCES
EUROPEAN MIGRATION NETWORK

**TEMPORARY AND CIRCULAR
MIGRATION: EMPIRICAL EVIDENCE,
CURRENT POLICY PRACTICE AND
FUTURE OPTIONS IN ESTONIA**

TALLINN 2010

Executive summary

In recent years the idea of temporary labour migration has regained increasing popularity. It is often perceived as a solution that comes to the benefit of sending country, receiving country as well as individual migrants. It offers destination countries a steady supply of needed workers in both skilled and unskilled occupations, without the requirements of long-term integration. Countries of origin can benefit from the inflow of remittances while migrants are abroad and their investments and skills upon return. The migrants are also thought to gain much, as the expansion of circular migrations programs increases the opportunities for safer, legal migration from the developing world. Circular migration is also being advocated as a potential solution (at least in part) to a number of challenges surrounding contemporary migration.

Two very different concepts of circular migration are prevalent in the policy world today. One conceives circular migration as a normal, spontaneous pattern of movement between places, followed by people who are able to move more or less freely between them. This is the so-called '*spontaneous circular migration*'. The second concept is of circular migration as a tool for managing migration under more or less strictly defined conditions – the aim is often to fill labour market needs while avoiding migrant settlement and the corresponding obligation of integration for the country of destination; sometimes the aim is to provide training and experience while avoiding brain drain from the country of origin. The second is also known as '*managed circular migration*', e.g. temporary worker programmes, which are mostly associated with the circular migration.

Although a critical component, a temporary labour programme is just one of the ways to facilitate circularity. Return of members of the Diaspora is another type of circular migration.

Estonian government has confirmed its support for temporary and circular migration in the programme of Estonia's European Union Policy 2007–2011 by stating that 'it is important to promote legal migration, cooperate with third countries (spreading information regarding possibilities of legal migration, technical aid), develop further and if possible, implement the concept of circular migration'. Estonian government has also made several amendments in

Estonian legislation that mostly facilitate temporary migration of third-country nationals, but also circular migration of third-country nationals and the return of the Diaspora.

By lessening the time limits of proceedings of residence permit applications, but at the same time enacting a salary criterion for aliens entering Estonia for the purpose of employment, the state has clearly taken the path of encouraging employment of (highly skilled) third-country nationals who employers consider a necessary asset to their company by agreeing to pay them a salary that is equal or more of that set by the salary criterion. There are still some qualitative and quantitative restrictions that the third-country nationals have to comply with before they are approved for entry into Estonia. These qualitative restrictions in case of employment involve, for example, receiving permission from the Estonian Unemployment Insurance Fund who verifies that there are no eligible candidates for the position in Estonia or European Union, and the immigration quota poses as the quantitative restriction.

The last couple of years have shown that the immigration quota, maximum rate of which was increased in 2008, has not been filled. This may be indicative of the right estimation by the state of needs of the employers in filling vacant positions with third-country nationals. This is due to the fact that taking into account all the exceptions the immigration quota applies only to aliens wishing to enter Estonia for employment or for engagement in enterprise.

According to the Estonian Higher Education Internationalization Strategy 2006–2015, the state is expecting an increase in the number of students from third countries in Master's studies and Doctoral studies provided in Estonia. For these purposes an exception has been enacted, which allows aliens legally staying in Estonia to apply for a residence permit in Estonia (instead of from Estonian foreign representation) for studying in an officially certified study programme of Master's study or Doctoral study. The state is also planning to allow aliens staying in Estonia on the basis of a temporary residence permit for studying to apply for a residence permit for employment in Estonia, which currently is not allowed.

Current legislation and planned amendments described above are indicative of facilitating temporary migration. But the state is also supportive of circular migration by enabling the alien to register his or her absence from Estonia whilst residing in Estonia on the basis of a residence permit. Registration of absence enables an alien to stay away from Estonia on a temporary basis of up to 2 years at a time without losing the residence permit. Registration of

absence also guarantees the alien that when applying for a long-term resident's residence permit or Estonian citizenship the alien's absence will be taken into account when calculating the time of permanent residence in Estonia.

Estonia has also been successfully implementing a temporary labour programme – short-term employment – for quite some time, which is one of the ways of encouraging managed circular migration. The programme has proved to be quite effective in tackling short-term need of labour, mostly for skilled labour. The salary criterion has been enacted as of 2008 in case of short-term employment, similarly to temporary residence permit for employment. It can be concluded that the salary criterion has been an effective tool in cases of short-term employment and temporary residence permit for employment, in preventing cheap labour coming to Estonia.

Another measure, which the government has been keen on promoting is recalling of the Diaspora. This measure was planned already in 2007 in the Programme of the Coalition for 2007–2011. With this purpose a website has been set up advertising job vacancies for Estonians living abroad and wanting to return home, also Estonians returning home can apply for financial aid.

It can be concluded that Estonia is supportive of temporary migration, which is regulated by clear quantitative and qualitative measures. At the same time, Estonia is also supportive of managed circular migration, which is not restricted in quantity, but is subject to qualitative restrictions.

The main measure through which Estonia is very supportive of is recalling the Diaspora. By attracting back Estonians living abroad the state is hoping to increase the amount of highly skilled (taxpayers) workers in Estonia, who would contribute to the national growth in developing sectors.

1. INTRODUCTION: PURPOSE AND METHODOLOGY FOLLOWED

Present study is an overview prepared within the framework of the European Migration Network (hereinafter the EMN) on the state of circular and temporary migration in Estonia and on Estonia's approach to circular and temporary migration. Statistics in the study are provided for the time period of 2004 to 2009, though the study itself also covers the year 2010.

This study is tenth migration and asylum study prepared by the EMN Estonian contact point. Earlier studies are available at the web page of the EMN Estonian contact point at www.sisekaitse.ee/erv.

The aim of this study is to understand the characteristics of temporary labour migration and circular/repetitive migration patterns of third-country nationals, including the categories (e.g., third-country nationals moving temporarily to the EU for short-term employment, seasonal work, study or research; or settled migrants living in the EU moving temporarily to their countries of origin); the definitions and conceptualisation in Estonia; and the criteria and conditions applied in Estonia (e.g., entry conditions, work and residence permits).

The study will also review and analyse existing statistical data and empirical evidence for circular/temporary migration and examine possible approaches for measuring/estimating whether, and if so to what extent, migration has become increasingly circular or temporary in nature.

Present EMN study will help policymakers and analysts to gain knowledge on the circularity and timeliness of migration by revealing migration patterns and aid in better management and control of migratory flows. Additionally, the study will highlight best practices, and include recommendations as to improve data collection practices.

On the basis of studies presented by the national contact points the EMN compiles a summarized report, which shall contribute to the development of European Union (hereinafter the EU) policy proposals on temporary and circular mobility by improving the methodology

and the knowledge base on the circularity and timeliness of migration. Analysis of respective policy practices and identification of future options will also be in regard to the proposal for an EU Directive on the conditions of entry and residence of seasonal workers. It could also be relevant for the review of the long-term residents' directive, due early in 2011, and for the implementation of the Blue Card directive by Member States (deadline June 2011). The summarised report will be compiled and published by the end of 2010.

The study also aims at responding to requests from the Council through Council Conclusions and the Stockholm Programme regarding further exploration and development of circular migration as a part of EU migration policy.

Consistent with the remit of EMN and with previous studies, the study will focus on third-country national migrants.

The study will partially reprise the 2010 EMN study on '*Satisfying labour demand through migration in EU Member states*' and 2006 EMN study on '*Conditions of Entry and Residence of Third Country Highly-Skilled Workers in the EU*', though present study will concentrate on examining empirical evidence and current policy practices regarding temporary and circular migration and will reflect on possible future options in this field.

The study should be seen in the context of the complementary EMN study on '*Satisfying labour demand through migration in EU Member states*', which was undertaken in conjunction with this study on temporary and circular migration.

1.1 Methodology

This report is compiled according to the specifications and structure of EMN Study 2010 '*Temporary and circular migration: empirical evidence, current policy practice and future options in EU Member States*'. Methodologically, this study is a so called Desk Research or secondary research, which uses already existing public information and no new studies or analyses were carried out for compiling the overview. For preparation of this paper, existing public studies, legislation and overviews have been used and experts of respective field have

been interviewed. Furthermore, earlier studies and reports compiled by the Estonian contact point within the framework of EMN have been used (e.g., *'Satisfying labour demand through migration in Estonia'*, *'Conditions of Entry and Residence of Third Country Highly-Skilled Workers in Estonia'*).

During the course of preparation of this study, inquiries were sent to the Police and Border Guard Board, Ministry of Foreign Affairs, Ministry of the Interior, Integration and Migration Foundation Our People. Additionally, data provided by different authorities during the preparation of the EMN study *'Satisfying labour demand through migration in EU Member states'* was also used.

Due to the fact that topics of (labour) migration from third countries, but also of ways attracting back Estonian Diaspora living abroad, which is a kind of circular migration, have been of interest for the Estonian Government and also the society in recent years, the discussions in the media have also been observed.

1.2 Definitions

In recent years the idea of temporary labour migration has regained increasing popularity. It is often perceived as a solution that comes to the benefit of sending country, receiving country as well as individual migrants.¹ It offers destination countries a steady supply of needed workers in both skilled and unskilled occupations, without the requirements of long-term integration. Countries of origin can benefit from the inflow of remittances while migrants are abroad and their investments and skills upon return. The migrants are also thought to gain much, as the expansion of circular migrations programs increases the opportunities for safer, legal migration from the developing world.² Circular migration is also being advocated as a potential solution (at least in part) to a number of challenges surrounding contemporary migration.³

¹ Wiesbrock, A., Schneider, H. Circular Migration and Mobility Partnerships. Briefing paper prepared for the LIBE committee, February 2009, p. 1.

² Agunias, D. R., Newland, K. Circular Migration and Development: Trends, Policy Routes, and Ways Forward. Migration Policy Institute Policy Brief, April 2007, p. 1.

³ Vertovec, S. Circular Migration: the way forward in global policy? International Migration Institute, University

Two very different concepts of circular migration are prevalent in the policy world today. One conceives circular migration as a normal, spontaneous pattern of movement between places, followed by people who are able to move more or less freely between them. This is the so called '*spontaneous circular migration*'. The second concept is of circular migration as a tool for managing migration under more or less strictly defined conditions – the aim is often to fill labour market needs while avoiding migrant settlement and the corresponding obligation of integration for the country of destination; sometimes the aim is to provide training and experience while avoiding brain drain from the country of origin.⁴ The second is also known as '*managed circular migration*', e.g. temporary worker programmes, which are mostly associated with the circular migration.

Although a critical component, a temporary labour programme is just one of the ways to facilitate circularity. Return of members of the Diaspora is another type of circular migration.⁵ Due to this, present study will also concentrate at Estonia's efforts to recall the Diaspora, even though this concept falls out of the scope of the term '*circular migration*' provided in the EMN Glossary⁶.

There is also another possibility to differentiate between different patterns of circular migration – '*inward*' and '*outward*' circular migration. Inward circular migration describes the pattern in which people whose permanent residence is in the migrant origin country move temporarily to country of destination and return to country of origin either voluntarily or because they are required to do so, usually after a pre-determined period. Outward circular migration is the practice of immigrants or their descendants who are firmly settled in the country of destination and move freely between country of destination and country of origin. In both cases, circular migration involves both return and repetition. Temporary migration just involves return.⁷

of Oxford, 2007, p. 2.

⁴ Newland, K. Managed and Spontaneous Circular Migration: An overview of contemporary practice. 15th International Metropolis Conference workshop WS322 2010, p. 1.

⁵ Agunias, D. R., Newland, K. Circular Migration and Development: Trends, Policy Routes, and Ways Forward. Migration Policy Institute Policy Brief, April 2007, p. 3.

⁶ Available online:

<http://emn.sarenet.es/Downloads/prepareShowFiles.do;jsessionid=D6649EF2002907D6E13048681817236C?directoryID=117>.

⁷ Newland, K. Managed and Spontaneous Circular Migration: An overview of contemporary practice. 15th International Metropolis Conference workshop WS322 2010, p. 1.

Defining the concept of circular migration through inward and outward circular migration is in line with the definition of the term '*circular migration*' provided in the EMN Glossary, which is given below with point (a) describing outward circular migration and point (b) respectively inward circular migration.

Estonia's currently valid Aliens Act⁸ does not contain terms relevant for this study, i.e. '*circular migration*' and '*temporary migration*'. However, it does define terms '*permanent resident*'⁹ (a permanent resident is an Estonian citizen residing in Estonia or an alien residing in Estonia who holds a long-term residence permit or right of permanent residence) and '*permanent residence in Estonia*'¹⁰ (permanent residence in Estonia is deemed to mean that an Estonian citizen or an alien who holds a residence permit or right of residence in Estonia stays in Estonia for at least 183 days a year). Hereinafter these terms are used in the meaning provided above. The Aliens Act also contains provisions regarding temporary residence permit and long-term resident's residence permit, the latter being enacted for transposing the Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents.¹¹

With the entry into force of new wording of the Aliens Act on 1 October 2010¹² the Act foresaw the definition of the term '*temporary stay in Estonia*'¹³ in addition to the abovementioned terms. Temporary stay in Estonia is defined as alien's stay in Estonia without a residence permit or a right of residence. Thus limiting the meaning of temporary stay to only those aliens legally staying in Estonia that are in a possession of some other legal basis (except for the residence permit or the right of residence) that enables them to enter and stay Estonia, e.g. a visa.

Pursuant to the specifications of this study below terms are used in accordance with the definitions provided in the EMN Glossary, if not stated otherwise.

⁸ RT I 2010, 3, 4; 2010, 41, 240.

⁹ Aliens Act § 5.

¹⁰ Aliens Act § 6.

¹¹ OJ L 16, 23.01.2004, p. 44–53.

¹² RT I 2010, 3, 4.

¹³ Aliens Act § 7.

According to the EMN Glossary, the definitions for circular migration and temporary migration are:

1.2.1 Circular migration

(Derived from 16.05.2007 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions On circular migration and mobility partnerships between the European Union and third countries¹⁴)

The two main forms of circular migration which could be most relevant in the EU context are:

(a) Circular migration of third-country nationals settled in the EU

This category of circular migration gives people the opportunity to engage in an activity (business, professional, voluntary or other) in their country of origin while retaining their main residence in one of the Member States. This covers various groups, for instance:

- Business persons working in the EU and wishing to start an activity in their country of origin (or in another third country); and
- Doctors, professors or other professionals willing to support their country of origin by conducting part of their professional activity there.

(b) Circular migration of persons residing in a third country

Circular migration could create an opportunity for persons residing in a third country to come to the EU temporarily for work, study, training or a combination of these, on the condition that, at the end of the period for which they were granted entry, they must re-establish their main residence and their main activity in their country of origin. Circularity can be enhanced by giving migrants the possibility, once they have returned, to retain some form of privileged mobility to and from the Member States where they were formerly residing, for example in

¹⁴ COM(2007) 248 final. Available online: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0248:EN:NOT>.

the form of simplified admission/re-entry procedures.

This category covers a wide array of situations, spanning the whole spectrum of migrants, including:

- Third-country nationals wishing to work temporarily in the EU, for example in seasonal employment;
- Third-country nationals wishing to study or train in Europe before returning to their country;
- Third-country nationals who, after having completed their studies, wish to be employed in the EU (for example as trainees) to acquire professional experience which is difficult to obtain at home, before returning;
- Third-country researchers wishing to carry out a research project in the EU;
- Third-country nationals, who wish to take part in intercultural people-to-people exchanges and other activities in the field of culture, active citizenship, education and youth (such as, for example, training courses, seminars, events, study visits);
- Third-country nationals who wish to carry out an unremunerated voluntary service pursuing objectives of general interest in the EU.

1.2.2 Temporary migration

Migration for a specific motivation and/or purpose with the intention that afterwards there will be a return to country of origin or onward movement.

Related Terms: Short-Term Migrant, Permanent Migration

With regard to the development of EU policy, this may be seen in the context of *inter alia* circular migration and/or seasonal workers.

With regard to the differences between these two terms, *Circular Migration* may be considered in the context of a *back-and-forth movement* between the EU and the country of

origin, which is enabled by, for example, simplified admission/re-entry procedures for this type of migrants; whilst *Temporary Migration* refers more to a single movement and then *limited* stay in the EU.

Definitions of different categories of migrant workers (e.g., highly-skilled worker, seasonal worker, etc) in this study are based on the EMN study on '*Satisfying labour demand through migration in EU Member states*'.

2. APPROACH TO CIRCULAR AND TEMPORARY MIGRATION IN ESTONIA

There were 1.32 million people living in Estonia on 1 January 2009.¹⁵ 32% of Estonian population is made up of non-Estonians and some 24% of immigrants (*immigrant being a person both of whose parents were born outside of Estonia*).¹⁶

Most of Estonian immigrant population formed after the Second World War and mostly came from other parts of the Soviet Union. Migration inflow was quite intense until 1988 and comparison of years of this period showed that the most intense migration was after the war until the beginning of the 1950s. The share of immigrant population is continuously decreasing. On the one hand it is caused by third generation of immigrants belonging to native population and on the other hand by very low migration rate to Estonia after Estonia gained re-independence.¹⁷

The number of people leaving Estonia is larger than the number of people arriving in Estonia.¹⁸ A total of 10,326 people migrated to Estonia during 2000–2007. Consequently, immigration constitutes 0.1% of the population per year. [...] The most important country of origin for immigrants was Finland from where 3,145 persons, or 31% of all immigrants, moved to Estonia in the period 2000–2007. The second important country of origin was Russia with 2,467 persons or 24% of the immigrants. A considerable number of people also arrived from the Ukraine, Germany, Sweden, Latvia and the United Kingdom. Immigration to Estonia has increased from all the aforementioned countries in 2000–2007, whereas since 2004 the rate of immigration has increased more rapidly than earlier. This means that re-migration comprises a large proportion of the immigration to Estonia, i.e. many former emigrants return to Estonia within a few years.¹⁹

¹⁵ Eesti. Arve ja fakte 2010. Statistics Estonia 2010, p. 8.

¹⁶ Immigrantrahvastik Eestis. 2009. Immigrant population in Estonia. Statistics Estonia 2009, p. 30.

¹⁷ Ibid, p. 9.

¹⁸ Eesti. Arve ja fakte 2010. Statistics Estonia 2010, p. 8.

¹⁹ Ränne. 2000–2007. Migration. Statistics Estonia 2009, p. 64.

The following part of the study will provide an overview of Estonia's approach to and experience with circular and temporary migration. It will also deal with policies and legal framework in place in Estonia that stimulates circular or temporary migration.

2.1 National vision, policy and programmes

2.1.1 Programmes promoting temporary and circular migration

Since regaining independence, Estonia's migration policy has always been clearly restrictive towards immigration. For that purpose clear quantitative and qualitative restrictions have been set forth in the Aliens Act such as the annual immigration quota and specific bases for granting a residence permit.²⁰

It is the aim of the incumbent Government of the Republic to continue on that policy's course. Programme of the Coalition for 2007–2011²¹ of the Government of the Republic signed on 2 April 2007 foresaw that the coalition will continue to pursue former citizenship and immigration policy.²² Together with this aim, the coalition also considered it necessary to speed up revision of work permit applications and reduce the bureaucratic operations pertaining thereto.²³

For the implementation of the Programme of the Coalition for 2007–2011 Government of the Republic approved an [action plan for 2007–2011](#) on 12 January 2009.²⁴ The action plan repeated again the aim stated in the Programme of the Coalition – maintaining the former citizenship and immigration policy.²⁵

Activities under the chapter that covers economic policy, tax policy and budgetary policy the Government of the Republic foresaw speeding up the revision of work permit applications

²⁰ Annus, R. Estonia's possibilities and choices in the formation of immigration policy. Publications of the Parliament 2009/20, p. 4.

²¹ Programme of the Coalition for 2007–2011. Available online: <http://www.valitsus.ee/?id=1468>.

²² Ibid. Legal Policy, subindent 6.

²³ Ibid. Economic policy, tax policy and budgetary policy, subindent 16.

²⁴ Annex of the 12 January 2009 order of the Government of the Republic No 9. Available online: http://www.valitsus.ee/failid/2008_12_30_VV_Tegevusprogramm_2007_2011_koduleht.pdf.

²⁵ Ibid. Legal Policy, subindent 18.6.

and reduce the bureaucratic operations pertaining thereto.²⁶ This activity was fulfilled already mid 2008 when amendments to the Aliens Act²⁷ entered into force that brought on reduction of the time that it took to review and make a decision on a temporary residence permit application (including that for employment). Prior to the amendment entering into force the procedural time was set at 6 months for aliens who were included in the immigration quota and 3 months for those who were excluded from it.²⁸ The amendment foresaw harmonisation of these two terms and set the procedural time for review of a temporary residence permit application at 2 months for both groups of aliens – those included and those excluded from the immigration quota.²⁹

Next to the Programme of the Coalition for 2007–2011 is the Estonian national programme [‘Estonia’s European Union Policy 2007–2011’](#),³⁰ which was approved by the Government of the Republic of Estonia on 25 October 2007. Estonia’s European Union Policy 2007–2011 programme is the second most important document that plans activities of the Government of the Republic at the institutions of the European Union.

According to said programme Estonia supports a common migration policy of the European Union and finds it important that the migration policy of the European Union would also include cooperation with countries of origin and transit of immigrants and take into account the needs of labour markets of the European Union and Member States, facilitate integration of immigrants and manage the accompanying social and cultural risks. As the population of the European Union is aging and labour shortage is on the rise, it is necessary to ensure a more efficient management of migration flows to preserve competitiveness. Estonia considers it important to develop legislation on the level of the European Union that creates favourable conditions for immigration and residence of highly qualified workforce in the EU. It is important to promote legal migration, cooperate with third countries (spreading information regarding possibilities of legal migration, technical aid), develop further and if possible,

²⁶ Ibid. Economic policy, tax policy and budgetary policy, subindent 2.16.

²⁷ Amendment Act of Aliens Act and State Fees Act. RT I 2008, 15, 107.

²⁸ 26 November 2002 Regulation of the Government of the Republic No 364 ‘Procedure for Application for, Grant, Extension and Revocation of Temporary Residence Permit and Work Permit and Procedure for Registration of Absence of Aliens from Estonia’ (RT I 2002, 98, 574; 2008, 12, 83) § 27 (1).

²⁹ 12 June 2008 Regulation of the Government of the Republic No 94 ‘Amendment of the 26 November 2002 Regulation of the Government of the Republic No 364 ‘Procedure for Application for, Grant, Extension and Revocation of Temporary Residence Permit and Work Permit and Procedure for Registration of Absence of Aliens from Estonia’ (RT I 2008, 24, 162) point 7.

³⁰ Estonia’s European Union Policy 2007–2011. Available online: http://www.riigikantselei.ee/failid/ELPOL_2007_2011_EN.pdf.

implement the concept of circular migration. Estonia also sees the need for more objective, reliable and comparable migration data and analysis, which can be achieved through open and coordinated cooperation between Member States.³¹

Also, the programme foresees that the conclusion of visa facilitation and readmission agreements with third countries must remain a priority of the migration policy of the European Union so that facilitating visa issuance procedures will help to develop relations between people as well as countries and to ensure quick performance of readmission obligation of persons illegally residing in a Member State.³²

[Estonian Higher Education Internationalization Strategy 2006–2015](#)³³ states that creation of legal environment that supports internationalization is guided by the developments in the field of higher education in Europe and by science, education and immigration policy that takes into account Estonia's national interests. Furthermore, the strategy notes that current citizenship and migration policy does not sufficiently support arrival and study or work of foreign students and teaching staff at the institutions of higher education.³⁴

The strategy establishes Estonia's interests in the participation of foreign students in Doctoral study, but also in Master's study and professional higher education study; and specifies that by 2015 there should be 2000 foreign non-resident aliens studying at Estonia's institutions of higher education.³⁵

It can be observed that most measures in the governmental programmes are aimed at facilitating temporary migration (for either working or studying) of highly skilled migrants without any major changes in the current legislation.

Additionally to paying increasing attention to attracting highly skilled new immigrants, the Ministry of Culture is addressing also issues of brain drain by recalling Estonians who have relocated to foreign countries for either work or study and facilitating their return.

³¹ Ibid, pp. 35–36.

³² Ibid, p. 36.

³³ Estonian Higher Education Internationalization Strategy 2006–2015. Available online: <http://www.hm.ee/index.php?popup=download&id=5617>.

³⁴ Ibid, I chapter.

³⁵ Ibid, II chapter.

2.1.2 Recalling the Diaspora

While immigration has grown steadily over the years, emigration has been rather irregular, with large variations between individual years. A total of 26,518 persons, or 3,315 persons per year, emigrated from Estonia during the period of 2000–2007.³⁶

Also, immigration does not only mean arrival of people from other ethnic nationalities or people with citizenship of other countries. A large part of the immigrants are re-migrants, i.e. Estonian citizens who have moved abroad in the past and are now returning to Estonia. Using the immigration of Estonian citizens as the basis, we can conclude that 4,425 persons re-migrated to Estonia in 2000–2007. While the number of re-migrants was relatively low during 2000–2006, a total of 2,536 persons in seven years, it increased rapidly in 2007: 1,789 persons returned to Estonia in one year.³⁷

With the aim of attracting back citizens of Estonia who have left in order to study or work in a foreign country, the Programme of the Coalition for 2007–2011 under the chapter of Estonian language protection policy foresees an activity of implementing an operational state programme for recalling Estonians from abroad³⁸ (doubled in the action plan for 2007–2011³⁹).

2.1.2.1 Talents Back Home!

The name of the project is '*Talents Back Home!*' and it is funded through the European Social Fund in Estonia 2007–2013.⁴⁰ The aim of the project is to invite students who have gone to study in universities in foreign countries within the framework of foreign programmes and graduates of foreign universities as well as citizens of Estonia who have obtained a significant

³⁶ Ränne. 2000–2007. Migration. Statistics Estonia 2009, p. 61.

³⁷ Ibid, p. 65.

³⁸ Programme of the Coalition for 2007–2011, Estonian language protection policy, subindent 15.

³⁹ Action plan for 2007–2011, point 10.15.

⁴⁰ European Social Fund in Estonia 2007–2013. Available online: <http://www2.sm.ee/esf2007/index.php?lang=2>.

work experience abroad to come back to Estonia, which can offer them work and self-realization in both private and public sector.⁴¹

There are between 4000 and 4500 young Estonians studying abroad. Research carried out within the framework of the project showed that about 89% are ready to return to Estonia if a good job offer came along. Timing might also play a key role here (e.g. in time for graduation or when the children of those living abroad reach school age). Main elements, which motivate those graduating abroad to return to Estonia are:

- Pay, which will guarantee a good standard of living (82.9%)
- Work environment (64.8%)
- Start of a career from a higher position (39.7%)
- Closeness of family and friends (56.5%)
- International dimension of the work (61.1%)
- Challenge (65.3%)
- Ease of return (23.9%)⁴²

Within the framework of the project the Estonian Chamber of Commerce and Industry launched an internet portal (www.talendidkoju.ee) in the beginning of October (06.10.2010) where talented young adults studying abroad can find information regarding work and internship offers in Estonia and where companies can use the contact network of those studying abroad in order to find employees. Already on 13 October 2010 it was reported that the interest has been bigger than first anticipated. Within a short time 220 highly qualified Estonians from 35 (!) different countries have registered at the website and are interested in returning to Estonia.⁴³

2.1.2.2 Return support

⁴¹ The Chamber of Commerce and Industry's new project 'Talents Back Home!' invites young people to come work at home. Article published online 06.10.2010. Available online: <http://www.koda.ee/?id=51044>.

⁴² Niitra, S. Most young people studying abroad want to return to Estonia. Article published online 07.10.2010. Available online: <http://www.tarbija24.ee/?id=323216>.

⁴³ Kass, M. More talents are taking interest in returning home than expected. Article published online 13.10.2010. Available online: <http://www.postimees.ee/?id=326174>.

Another measure for motivating Estonians all over the world to move back to Estonia is through return support⁴⁴, which is provided by the Integration and Migration Foundation Our People.

The foundation was originally founded by the Republic of Estonia in 1998.⁴⁵ Foundation's founder's rights are currently being performed by the Ministry of Culture.⁴⁶

According to the statutes of the foundation⁴⁷ the foundation was founded to initiate and support activities within Estonians and non-Estonians, which are aimed at integration of the Estonian society⁴⁸; and activities related to emigration and immigration.⁴⁹

The Integration and Migration Foundation Our People promotes integration processes in Estonia by coordinating activities related to immigration and emigration, publishing information in this regard and producing overviews. The foundation also consults people returning to or leaving Estonia on migration issues and offers them financial support, if necessary, in case of re-migration, emigration and expulsion.

Pursuant to the constitution of the Republic of Estonia every ethnic Estonian and Estonian citizen has the right to settle in Estonia. Terms '[ethnic] Estonian' and 'Estonian citizen' have different meaning. [Ethnicity] is primarily a self defining matter. Possible objective criteria [for establishing ethnicity] can be knowledge of Estonian language or filiation from an ethnic Estonian, but these characteristics do not define somebody unequivocally as an Estonian.⁵⁰

Integration and Migration Foundation Our People supports the return to Estonia of ethnic Estonians and Estonian citizens who have been resident abroad for at least 10 years or born

⁴⁴ Integration and Migration Foundation Our People. Return support. Available online: <http://www.meis.ee/tagasiranne-eng>.

⁴⁵ 31 March 1998 order of the Government of the Republic No 263 'Establishment of the Non-Estonians Integration Foundation'. RT I 1998, 33, 471.

⁴⁶ 11 June 2009 order of the Government of the Republic No 236 'Amendment of orders of the Government of the Republic in relation to handing over tasks of a minister'. RTL 2009, 48, 700.

⁴⁷ Statutes of the Integration and Migration Foundation Our People. Approved by the 25 August 2010 Directive of the Minister of Culture No 303. Available online: <http://www.meis.ee/pohikiri>.

⁴⁸ Ibid, p. 1.5.1.

⁴⁹ Ibid, p. 1.5.2.

⁵⁰ The Constitution of the Republic of Estonia. Commented Edition. Second supplemented edition. Juura Publishing House 2008, p. 342.

there by paying relocation support. The amount payable for return support is up to 30 000 kroons per adult (which is close to 2 000 euro).

Return support can be applied for after entry into the population register of Estonia, but no later than 6 months after resettling in Estonia.

The conditions for receiving return support for Estonian citizens and ethnic Estonians in a possession of a valid residence permit are following:

- The person has emigrated from Estonia at least 10 years ago or was born in a foreign country.
- The person has retained ties with the Estonian culture or is willing and wanting to join it.
- The person is in need of financial aid to return to Estonia due to his or her financial or social background.

In the course of this programme it has been noted that main reasons for returning to Estonia is reunification with family and better living and work prospects.⁵¹

2.1.2.3 Draft Estonian Citizens Returning Home Act

Estonian Centrist Party faction in the Parliament instituted a draft Estonian Citizens Returning Home Act⁵² on 27 September 2010. The Constitutional Committee of the Parliament forwarded the draft act to the Government of the Republic on 28 September 2010 for it to form an opinion regarding the draft act.

According to the explanatory memorandum of the draft act the aim of the act is to promote return of Estonian citizens to Estonia and also to motivate Estonian citizens to stay in Estonia.

⁵¹ 07.09.2010 response of the Integration and Migration Foundation Our People to EMN Estonian contact point.

⁵² Draft Estonian Citizens Returning Home Act (821 SE). Available online: http://www.riigikogu.ee/?page=en_vaade&op=ems&eid=1164510&u=20101021125309.

One of the amendments proposed in the draft act foresees payment of salary aid to the employers of employees with vocational training. This amendment is aimed at ensuring hiring of persons with vocational training and enhancing their competitiveness on the job market. Salary aid is payable once a month within a six month period, but no longer than 12 months. If the employer terminates the employment contract prior to one year passing since signing of the employment contract then the employer is obliged to return the received salary aid.

Another key amendment proposed in the draft act foresees that Statistics Estonia shall publish state statistics and be a registrar of a data base collecting data on Estonian citizens living and working abroad. Existence of such data base will provide a better overview of persons who have left Estonia.

Other amendments provide for other different tax and other fiscal incentives for Estonian citizens to live and work in Estonia.

The existing national policies and state programmes are mostly concentrated on recalling the Diaspora with different initiatives from putting into contact potential employers and employees to paying financial support upon return. But at the same time, national policy and programmes are also in support of attracting highly skilled foreign labour and foreign students, though they are only perceived as temporary migrants, who after completing their employment or studies are expected to return to their country of origin. The latter is being confirmed by the national legislation in place, which is considered below.

2.2 National legislation, conditions, criteria and enforcement

Since becoming an EU member state, Estonia's immigration law has been under constant scrutiny and constant amendments are made in order to comply with the EU *acquis*. But, even though Estonia's immigration law has been strongly influenced by EU law, changes have not been substantial in the overall immigration policy. Regulation has become a lot more precise

and varies between different groups of aliens, depending on the state's responsibilities in front of a specific group of aliens.⁵³

Primary influence of EU law has been in the field of visa policy, which is now comprehensively regulated by the Regulation (EC) No 810/2009 of the European Parliament and of the Council establishing a Community Code on Visas (Visa Code)⁵⁴ and visa facilitation agreements with the main purpose of facilitating, on the basis of reciprocity, the issuance of short-stay visas (90 days per period of 180 days). So far eight visa facilitation agreements have been signed and entered into force, but only three of them are still of importance and these are with Ukraine⁵⁵, the Republic of Moldova⁵⁶, and the Russian Federation.⁵⁷

Enforced visa facilitation agreements and the entry into force of the Visa Code brought on a strive for a more open visa policy in Estonia, which has seen favouring bona fide travellers (visa applicants with prior positive visa history) by issuing them visas with a longer validity (5 years).

Along with the abovementioned bid for a more open visa policy another change was undertaken with the aim of simplifying the visa procedure. Namely, an amendment of the Aliens Act⁵⁸ entered into force on 30 July 2009, which repealed the visa invitation regulation.

The aim of the visa invitation was to verify the circumstances of the arrival of the alien to Estonia and oblige the sponsor of the alien to host the alien in Estonia, ensure his or her accommodation and cover his or her costs of stay in and leaving from Estonia, including transport costs that are incurred when deporting the alien from Estonia.

Pursuant to the above amendment of the Aliens Act the Police and Border Guard Board (then Citizenship and Migration Board) no longer verifies visa invitations of sponsors (natural or legal persons) since 30 July 2009. Visa invitations verified prior to that date did remain valid

⁵³ Annus, R. Estonia's possibilities and choices in the formation of immigration policy. Publications of the Parliament 2009/20, p. 5.

⁵⁴ OJ L 243, 15.09.2009, pp. 1–58.

⁵⁵ OJ L 332, 18.12.2007, pp. 66–76.

⁵⁶ OJ L 334, 19.12.2007, pp. 168–179.

⁵⁷ OJ L 129, 17.05.2007, pp. 25–34.

⁵⁸ Amendment Act of Identity Documents Act, Consular Act, Penal Code, State Fees Act, Aliens Act and Citizenship Act. RT I 2009, 27, 166.

for the entire term of validity, which was 6 months from the date of verification, but sponsor could not be held responsible for the costs incurred by the state in case of deportation of the alien.

Under current Aliens Act⁵⁹ the alien applying for a visa still has to prove the aim of the trip, existence of accommodation and covering the costs of his or her stay in Estonia and leaving from Estonia. But, as of 30 July 2009 the alien has to prove these circumstances with other available documents.

Aliens Act is also the main act in the field of immigration that regulates entry into, stay, residence and employment in Estonia of third country nationals. Aliens Act does not cover such groups of aliens as citizens of the European Union and their family members, and aliens who have been granted international protection.

Bases for entry into, stay and residence in Estonia by citizens of the European Union and their family members are enacted in the Citizen of the European Union Act.⁶⁰ Bases for acquiring the legal status and employment of asylum applicants and aliens who have been granted international protection are established in the Granting Aliens International Protection Act.⁶¹

As of 1 October 2010 new wording of the Aliens Act⁶² entered into force. The aim of enacting a new wording of the Aliens Act was mainly greater legal clarity. The rearrangement of the structure and systematization of the regulation allows achieving greater clarity and a system, which makes finding appropriate parts of the act easier for both, the addressee and implementing authority of the law. New wording of the Act also gives a better overview of the valid law.⁶³ In comparison to the previous wording of the Aliens Act⁶⁴ the new Aliens Act does not contain many (if any) significant changes in the regulation itself. The study is based on the currently valid Aliens Act, if not stated otherwise.

⁵⁹ RT I 2010, 3, 4; 2010, 41, 240.

⁶⁰ RT I 2006, 26, 191; 2010, 41, 241.

⁶¹ RT I 2006, 2, 3; 2010, 3, 4.

⁶² RT I 2010, 3, 4.

⁶³ Explanatory Memorandum to the draft Aliens Act (537 SE). Available online:

<http://www.riigikogu.ee/?page=eelnou&op=ems&emshelp=true&eid=673175&u=20101203131854>.

⁶⁴ RT I 1993, 44, 637; 2010, 34, 184

The Aliens Act foresees a list of legal bases, which give the alien the right to enter and stay in Estonia, but only long-term visa⁶⁵ (also known as D visa), temporary residence permit⁶⁶ and long-term resident's residence permit⁶⁷ give an alien the right to stay in Estonia for more than three months at a time.

2.2.1 Enactment of a salary criterion

There has been another important change in the Aliens Act, which entered into force in 2008, but preparations for which started long before.

On 31 August 2006 at a cabinet meeting the Government of the Republic⁶⁸ approved a proposal to develop a strategy for the movement of immigrant labour. The Minister for Economic Affairs and Communication was assigned to put together a working group that would be in charge of developing proposals for simplifying the procedures of labour immigration. The working group comprised of specialists and representatives of different government agencies (Ministry of the Interior, Ministry of Social Affairs, Citizenship and Migration Board, Labour Market Board etc.) and non-governmental organizations (Estonian Employers Confederation, Estonian Trade Union Confederation etc.).

The working group was to develop these proposals through shortening of set terms, lessening of requested documents and making the system more transparent in the procedures concerning registration of short-term employment and application for a temporary residence permit for employment. Minister of Economic Affairs and Communications presented proposals of the working group at the 14 June 2007 cabinet meeting of the Government of the Republic where they were approved.⁶⁹ Legal amendments based on these proposals to the Aliens Act and other relevant acts⁷⁰ entered into force on 14 June 2008. One of main amendments foresaw

⁶⁵ Aliens Act § 60.

⁶⁶ Aliens Act Chapter 3 Title 1.

⁶⁷ Aliens Act Chapter 3 Title 2.

⁶⁸ Point 2 on the agenda of the 31 August 2006 cabinet meeting of the Government of the Republic. Available online: <http://www.valitsus.ee/brf/index.php?id=35849&tpl=1006>.

⁶⁹ Point 4 on the agenda of the 14 June 2007 cabinet meeting of the Government of the Republic. Available online: <http://www.valitsus.ee/brf/index.php?id=284531&tpl=1006>.

⁷⁰ Amendment Act of Aliens Act and State Fees Act. RT I 2008, 15, 107.

enacting a salary criterion for aliens who wish to enter Estonia's labour market either through short-term employment or temporary residence permit for employment.

The employer employing an alien for short-term employment for a certain position is required to pay a salary, which has to be equal to or more than the amount specified in the Aliens Act. The Aliens Act specifies that the salary payable to the alien has to be equal to or more than the annual average gross monthly salary of the respective sector (of either the employer or employee depending on whether the employer is a legal or a natural person), but not lower than the product of the Estonian average annual salary recently published by Statistics Estonia and coefficient 1.24.⁷¹

Salary criterion in case of short-term employment only applies in case of registering short-term employment for a childminder; expert, advisor or a consultant; installer of equipment or skilled worker; or seasonal worker for dealing with processing of agricultural products.⁷²

In case of the salary criterion for temporary residence permit for employment the employer must pay the employee a salary that is equal or more than the product of the Estonian average annual salary recently published by Statistics Estonia and coefficient 1.24.⁷³

Salary criterion in case of temporary residence permit for employment does not apply to an alien belonging to one of the following categories:⁷⁴

- 1) who is a minister of a religion, nun or monk, or with the approval of the Ministry of Interior, is invited by a religious association;
- 2) who is a journalist accredited by the Ministry of Foreign Affairs;
- 3) whose right to take employment in Estonia without a work permit arises from an international agreement;
- 4) who is employed as a person engaged in creative activities as specified in the Performing Arts Institution Act;
- 5) who is employed as a teacher or lecturer in an educational institution which complies with the requirements established by legislation;

⁷¹ Aliens Act § 107 (1).

⁷² Ibid.

⁷³ Aliens Act § 178 (1).

⁷⁴ Aliens Act § 181 (1).

- 6) who is employed for scientific research, if the alien has appropriate professional training or experience for such activities, and the research and development institution has signed a host contract;
- 7) who is a sportsman, coach, referee or sports official by invitation of a corresponding sports federation;
- 8) who is employed as a member of the directing body in a legal person registered in Estonia for the performance of directing or monitoring functions;
- 9) who is a posted worker for the purposes of the Working Conditions of Workers Posted in Estonia Act;
- 10) who is in a possession of an long-term resident's residence permit issued by an European Union member state.

The following three purposes can be set forth for establishing the salary criterion:

- 1) Limiting the immigration inflow to only highly skilled labour force that is missing from the Estonian labour market.
- 2) Excluding replacement of local labour force with cheap low-skilled workers hired from abroad.
- 3) Replacing the need for checking employee's qualifications.⁷⁵

An important aspect of the salary criterion is its simplicity and transparency, which allows for rather simple supervision. The Police and Border Guard Board has the right and an obligation to check if the salary paid to an employee corresponds to the rate established in the law by making an inquiry to the Tax and Customs Board and the Tax and Customs Board is obliged to provide corresponding information to the Police and Border Guard Board.⁷⁶ These inquiries can be made during the review of alien's application for short-term employment registration or temporary residence permit for employment, at random and prior to extending the temporary residence permit for employment.

The law foresees that the temporary residence permit for employment is not granted in case the employer does not fulfil the salary criterion, has tax arrears, a valid penalty for facilitation

⁷⁵ Satisfying Labour Demand through Migration in Estonia. Estonian Academy of Security Sciences 2010, p. 24.

⁷⁶ Aliens Act § 107 (4), § 178 (3).

of illegal employment, has failed to perform the obligation of notification, which arises from the law or there is other reasonable doubt regarding the reliability of the employer.⁷⁷

Since the enactment of the salary criterion the Police and Border Guard Board has discovered 256 cases where employers have not fulfilled the salary criterion in case of temporary residence permit for employment and 64 cases where employers have not fulfilled the salary criterion in case of short-term employment (there has been 0 cases thus far in 2010 regarding short-term employment).⁷⁸ Considering that in 2008 and 2009 there were 911 and 1063 temporary residence permits for employment were issued respectively and 537 and 204 cases respectively of registered short-term employment, then the number of cases of infringement is quite low.

2.2.2 Short-term employment

Alien temporarily staying in Estonia may work in Estonia, if his or her employment is registered.⁷⁹ Short-term employment, when registered, allows an alien staying in Estonia on a legal basis to work in Estonia for up to six months during a 12 month period.⁸⁰

Usually, the legal basis, which allows aliens to stay in Estonia for more than three months for short-term employment is a long-term visa.

According to the Regulation (EU) No 265/2010 of the European Parliament and of the Council amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa⁸¹, a long-term visa is a national visa, which is issued for stays exceeding three months. Article 1 of said regulation specifies that long-stay visas are issued with a validity period of no more than one year. The

⁷⁷ Aliens Act § 180.

⁷⁸ 26.08.2010 response of the Police and Border Guard to the EMN Estonian contact point.

⁷⁹ Aliens Act § 104 (1).

⁸⁰ Aliens Act § 106 (1).

⁸¹ OJ L 85, 31.03.2010, pp. 1–4.

Aliens Act enacts that a long-stay visa shall be issued for stay not exceeding 6 months at a time⁸² (if an international agreement does not foresee otherwise).

According to Article 1 (2) of the above mentioned regulation, the holder of a long-term visa is able to freely move within the Schengen area for three months within a six month period.

Long-term visa is issued to third country nationals for multiple or single entries⁸³ into and stay in Estonia that shall not exceed six months within a 12 month period.⁸⁴

Before 1 October 2010, when the new wording of Aliens Act entered into force, the Aliens Act⁸⁵ allowed issuing of long-term visas to representatives of following groups of third country nationals:

- 1) journalist accredited by the Ministry of Foreign Affairs who is representing foreign media and his or her spouse, a minor child or an adult child, who due to his or her state of health or disability is unable cope independently;
- 2) honorary consul of Estonia and his or her spouse, a minor child or an adult child, who due to his or her state of health or disability is unable cope independently;
- 3) alien who has registered his or her short-time employment in Estonia before applying for visa and his or her spouse, a minor child or an adult child, who due to his or her state of health or disability is unable to cope independently;
- 4) person determined in an international agreement on conditions provided in the agreement.

As of 1 October 2010 issuance of long-term visa is not limited and thus can be applied for in innumerable cases. Still worth noting is that most long-term visas prior to 1 October 2010 were issued to aliens who had registered their short-term employment in Estonia in accordance with the Aliens Act.

The short-term employment scheme was enacted in the Aliens Act⁸⁶ that entered into force already in May 2003. According to the explanatory memorandum of the draft amendment of

⁸² Aliens Act § 60 (3).

⁸³ Aliens Act § 60 (1).

⁸⁴ Aliens Act § 60 (3).

⁸⁵ Aliens Act (RT I 1993, 44, 637; 2010, 34, 184) § 10⁷ (1).

the Aliens Act⁸⁷ the short-term employment was enacted so that aliens staying in Estonia on the basis of a visa or the right of visa free movement could work in Estonia without a formal work permit. The exhaustive list of cases when the alien was permitted to work in Estonia on the basis of short-term employment was considered to be such, which by its nature and character did not endanger Estonian labour market. But for reasons of ensuring control and overview of aliens working in Estonia on the basis of short-term employment such an employment shall be registered.

Currently short-term employment can be applied for:⁸⁸

- 1) employment as a person engaged in creative activities as specified in the Performing Arts Institution Act;
- 2) employment as a teacher or lecturer in an educational institution that corresponds to the requirements prescribed by Estonian legislation;
- 3) research, if the alien has specialised training or experience;
- 4) professional activities as a sportsman, coach, referee or sports official on the basis of an invitation from a corresponding sports federation;
- 5) employment for the purposes of vocational training as a trainee by intermediation of an educational institution or student organisation or as assigned by an educational institution located abroad, if it is part of the study programme;
- 6) employment in the framework of a youth project or programme, if the youth project or programme is designated by the Ministry of the Education and Science;
- 7) providing services to a diplomatic representation of a foreign country on the basis of a permission from the Ministry of Foreign Affairs;
- 8) employment as childminder;
- 9) employment as an expert, advisor or consultant, if the alien has necessary qualification to work in that field;
- 10) employment as an installer of equipment or skilled worker, if the alien has necessary qualification to work in that field;
- 11) employment in seasonal works related to processing of agricultural products.

⁸⁶ Amendment Act of Aliens Act and other related Acts. RT I 2003, 4, 20.

⁸⁷ Explanatory memorandum to the draft Amendment Act of Aliens Act and other related Acts (1211 SE). Available

online:http://www.riigikogu.ee/?op=emsplain&content_type=text/html&page=mgetdoc&itemid=023090022.

⁸⁸ Aliens Act § 106 (1).

The above list has remained more or less the same throughout years with some minor amendments. Until 1 May 2004⁸⁹ it was also possible to register short-term employment for employment as a member of the directing body in a legal person registered in Estonia for the performance of directing or monitoring functions; and until 14 May 2008⁹⁰ it was possible to register short-term employment for making a direct investment, foundation of a branch of a foreign company in Estonia, or performance, by way of rotation, of the right of representation or directing functions in a company registered in Estonia and belonging to an international group of undertakings; for activities in the framework of an international program of co-operation involving agencies with state or local government participation; and for employment as domestic help.

Short-term employment registration procedure is enacted in 14 July 2010 Regulation no 24 of the Minister of the Interior ‘Procedure for registration of alien’s short-term employment in Estonia and enactment of forms of the application for registering alien’s short-term employment in Estonia’.⁹¹

Application for registration of short-term employment in Estonia is submitted to the Police and Border Guard Board or its prefecture by the employer who wishes to employ the alien.⁹² The Police and Border Guard Board shall review the application submitted and will register or refuse from registering short-term employment within 10 working days after the submission of a complete set of application documents.⁹³

In the application and in additional documents submitted with the application data on the employer⁹⁴ (e.g. contact details), employee⁹⁵ (e.g. personal data, data on education and qualification, contact information) and short-term employment⁹⁶ is presented. Data on short-term employment also includes date of the beginning and end of employment, information on the specifics of employment and salary payable to the alien.

⁸⁹ Amendment Act of Aliens Act and other related Acts. RT I 2004, 28, 189.

⁹⁰ Amendment Act of Aliens Act and State Fees Act. RT I 2008, 15, 107.

⁹¹ RT I 2010, 61, 436.

⁹² 14 July 2010 Regulation of the Minister of the Interior No 24 ‘Procedure for registration of alien’s short-term employment in Estonia and enactment of forms of the application for registering alien’s short-term employment in Estonia’ § 1.

⁹³ Ibid § 7 (1).

⁹⁴ Ibid § 8 (1).

⁹⁵ Ibid § 8 (2).

⁹⁶ Ibid § 8 (3).

In Estonia, short-term employment is mainly used for bringing additional labour force to work as an installer of equipment or a skilled worker (958 aliens registered their short-term employment in Estonia on this basis during the period of 2004–2009), also as an expert, advisor or a consultant (690 aliens registered their short-term employment in Estonia on this basis during the period of 2004–2009).

The short-term employment scheme in place in Estonia allows the alien to work in Estonia for up to six months within a 12 month period and there are no obstacles that would deny access to the Estonian labour market under this scheme to the same alien over and over again. Latter being applicable given that there is an employer who is able on the basis of the Aliens Act and willing to hire the alien and that the alien has not previously violated the conditions of his or her stay in Estonia.

From the beginning of 2004 till 30 September 2010 there have been altogether 644 aliens who have registered their short-term employment in Estonia more than once. But since in the short-term employment registration application the applicant may note down up to 9 different working periods (but only one decision is taken), then the actual number of aliens who have repetitively been employed under the short-term employment scheme in Estonia is probably much higher. Unfortunately, the data base does not allow extraction of such information.⁹⁷

There have also been cases where aliens who have worked in Estonia under the short-term employment scheme apply for a temporary residence permit afterwards. Altogether there have been 58 persons who have applied for a temporary residence permit after having worked in Estonia on the basis of the short-term employment scheme.

It can be observed from the statistics provided below that the cases of registration of short-term employment have decreased by twofold in 2009 in comparison with the 2008, which can be explained with the global economic downturn. Thus, the short-term employment scheme allows the employers to estimate their potential short-term need for foreign labour and address it accordingly.

⁹⁷ 29 October 2010 response of the Police and Border Guard Board to the EMN Estonian national contact point.

This short-term employment scheme that Estonia has been successfully implementing for a number of years falls under managed circular migration. It can also be characterised as inward circular migration. This sort of a temporary workers programme is one of the most widely used schemes to tackle labour shortages by migrant receiving countries.

2.2.3 Residence permits

It is possible to apply for either a temporary residence permit or a long-term resident's residence permit in Estonia.

Temporary residence permit is issued with the validity of up to five years⁹⁸ and may be extended in case conditions for extending the residence permit are met and there is no basis for refusal.⁹⁹ Additionally, the basis for the issuance of the residence permit should not have ceased to exist.¹⁰⁰

When determining the period of validity of an issued temporary residence permit several circumstances are taken into account, i.e. proof of the circumstances on which issuance of the residence permit is based; other relevant circumstances; and possibility that such circumstances may change during the period of validity of the residence permit to be issued.¹⁰¹

2009 was the first year since 2007 when the number of granted extensions of temporary residence permits (3 900) exceeded the number of granted (initial) temporary residence permits (3 769), which may be indicative of more third country nationals deciding to tie their lives with Estonia for a longer period of time.

Temporary residence permit is issued to an alien:¹⁰²

⁹⁸ Aliens Act § 119 (1).

⁹⁹ Aliens Act § 128.

¹⁰⁰ Aliens Act § 129 (2).

¹⁰¹ Aliens Act § 119 (2).

¹⁰² Aliens Act § 118.

- 1) to settle with a spouse permanently resident in Estonia;
- 2) to settle with a close relative permanently resident in Estonia;
- 3) for studying;
- 4) for employment;
- 5) for engagement in enterprise;
- 6) whose sufficient legal income ensures his or her subsistence in Estonia;
- 7) whose application for a residence permit is based on an international agreement (e.g. Agreement between the Republic of Estonia and the Russian Federation on Social Guarantees for Pensioners of the Armed Forces of the Russian Federation in the Territory of the Republic of Estonia¹⁰³);
- 8) whose application for a residence permit is in grave public interest.

As can be observed, aliens with different aims for settling in Estonia have the opportunity to do so by applying for a temporary residence permit. All applications are being processed taking into account the immigration quota – whether the applicant is included or excluded, and if yes, whether the immigration quota is full or not. The application for temporary residence permit shall be denied if by the time of making the decision on the application the immigration quota is full.¹⁰⁴

Immigration quota, which helps to control how many aliens come to live and work in Estonia, cannot exceed 0.1% of Estonia's permanent population.¹⁰⁵ The Aliens Act only establishes the maximum limit of the immigration quota and the exact figure is set by the Government of the Republic annually.¹⁰⁶

The Minister of the Interior has the right, within the limits of the immigration quota, to establish a distribution of the immigration quota according to the grounds for the application of a residence permit and on the basis of issuing the residence permit, and the annual schedule.¹⁰⁷ In recent years though, the Minister of the Interior has not foreseen such a distribution of the annual immigration quota.

¹⁰³ RT II 1995, 46, 203.

¹⁰⁴ Aliens Act § 123 4).

¹⁰⁵ Aliens Act § 113 (2).

¹⁰⁶ Aliens Act § 114 (1).

¹⁰⁷ Aliens Act § 114 (2).

The maximum value of the immigration quota has been set at 0.1% of Estonia's permanent population since 14 June 2008 by an amendment of the Aliens Act.¹⁰⁸ Prior to these amendments entering into force, the maximum value of the immigration quota made up 0.05% of Estonia's permanent population.¹⁰⁹ Additionally, the Minister of the Interior had the right to exclude certain persons from the immigration quota on the basis of a motivated proposal from either the Minister of Economic Affairs and Communications, the Minister of Finance, the Minister of Culture or the Minister of Education and Research given that the arrival of that alien is in the interest of the state and necessary for the development in the field of economics, education, science or culture.¹¹⁰

Valid Aliens Act does not foresee the possibility for additional exclusion of persons from the quota. Specific groups of persons excluded from the quota are listed in the Aliens Act. Valid Aliens Act provides a good overview of the exhaustive list of persons excluded from the immigration quota. These persons are:¹¹¹

- 1) an Estonian;
- 2) the spouse of an Estonian citizen or of an alien residing in Estonia on the basis of a residence permit with a temporary residence permit for settling with a spouse;
- 3) a minor child, adult child, parent, grandparent or ward of an Estonian citizen or of an alien residing in Estonia on the basis of a residence permit with a temporary residence permit for settling with a close relative;
- 4) an alien with a temporary residence permit for studying;
- 5) an alien with an appropriate qualification for a temporary residence permit for scientific research;
- 6) an alien with a residence permit issued on the basis of grave public interest;
- 7) an alien to whom issuance of a residence permit is substantiated and does not damage Estonia's state interests and who has settled in Estonia prior to 1 July 1990 and has not left to settle in another country after said date;
- 8) a citizen of the United States of America;
- 9) a citizen of Japan;

¹⁰⁸ Amendment Act of Aliens Act and State Fees Act. RT I 2008, 15, 107.

¹⁰⁹ Aliens Act (RT I 1993, 44, 637; 2007, 62, 394) § 6 (1).

¹¹⁰ Ibid § 6 (4).

¹¹¹ Aliens Act § 115.

10) an alien with a residence permit, which has been issued taken into account fulfilment of the immigration quota and who afterwards has not left to settle in another country.

Basically, immigration quota is applicable to aliens applying for a residence permit for employment or for engagement in enterprise.

The rule when applying for a temporary residence permit is that the alien has to submit the application to the Estonian foreign representation who after identification of the alien or verification of the alien's identity forwards the application to the Police and Border Guard Board where it is then processed.¹¹² The Aliens Act foresees exceptions to the rule, meaning that certain categories of aliens are allowed to submit their residence permit applications directly to the Police and Border Guard Board in Estonia. As of 1 October 2010 this exception is also inclusive of aliens who while legally staying in Estonia, apply for a residence permit for studying in an officially certified study programme of Master's study or Doctoral study.¹¹³

The above addition has created more flexibility in applying for a temporary residence permit for potential students from third countries where Estonia lacks a foreign representation, but is represented by another Schengen member state on the basis of a visa representation agreement.

With the entry into force of the Visa Code Estonia has made good use of the representation tool in order to facilitate application for a visa in third countries or regions of third countries where Estonia has no representation and signed visa representation agreements with several member states. Visa representation agreements have been concluded with 12 Schengen Member States in processing and issuing Schengen visas.¹¹⁴

With entry into force of the above addition to the Aliens Act, Estonia enhanced its accessibility (and thus attractiveness) to potential students in its Master's or Doctoral studies, which is in line with the Estonian Higher Education Internationalization Strategy 2006–2015, and is thus facilitating temporary migration of third country nationals to Estonia.

¹¹² Aliens Act § 215.

¹¹³ Aliens Act § 216 (1) 14).

¹¹⁴ List of third countries where another Schengen Member State represents Estonia in processing and issuing Schengen visas is available on the webpage of Estonia's Ministry of Foreign Affairs: <http://www.vm.ee/?q=en/taxonomy/term/172>.

Long-term resident's residence permit was transposed into Estonian legislation from Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents and replaced the former permanent residence permit.¹¹⁵ Aliens already in possession of the permanent residence permit were considered to be in possession of the long-term resident's residence permits.¹¹⁶

Long-term resident's residence permit is a permit issued to aliens for indefinite stay in Estonia.¹¹⁷ Such a permit is issued to an alien who has permanently resided in Estonia on the basis of a residence permit for at least five years immediately prior to applying for a long-term resident's residence permit.¹¹⁸

The number of decisions of granting long-term resident's residence permit has dropped in the last two years (2008 – 786, 2009 – 896) in comparison with the previous years (2006 – 7 090, 2007 – 3 068), which can be indicative of either aliens returning to their country of origin (or leaving Estonia for another country of destination) or aliens' continuous stay in Estonia on the basis of a temporary residence permit e.g. for reasons related to the integration requirement¹¹⁹ when applying for a long-term resident's residence permit. On 1 January 2010 there were altogether 25 212 valid temporary residence permits and 187 411 valid long-term resident's residence permits.

It is also impossible to estimate how many Estonia's long-term residents are actually currently living in another EU member state, since only as of 1 October 2010 are long-term residents obliged to register their absence from Estonia.

2.2.4 Registration of absence from Estonia

¹¹⁵ Amendment of Aliens Act and other related Acts. RT I 2006, 21, 159.

¹¹⁶ Amendment of Aliens Act and other related Acts (RT I 2006, 21, 159) § 1 36).

¹¹⁷ Aliens Act § 230.

¹¹⁸ Aliens Act § 232 (1) 1).

¹¹⁹ Aliens Act § 232 (1) 5).

If an alien in possession of a residence permit (either temporary or long-term resident's) wishes to stay away from Estonia for more than 183 days during a year, then he or she shall register his or her absence from Estonia at the Police and Border Guard Board.¹²⁰ Registered absence from Estonia can only be applied *ex nunc*.¹²¹

An alien may register his or her absence from Estonia if the alien's absence is due to following reasons:¹²²

- 1) working;
- 2) studying;
- 3) serving compulsory military service in the armed forces of a foreign country;
- 4) other reasons temporary in nature, which presume alien's absence from Estonia.

From the above list it can be derived that reasons for registering absence from Estonia are not limited. Main criteria applying to the reasoning is that the absence has to be temporary in nature. Also, the alien registering his or her absence has to provide evidence regarding the reasons and circumstances of the absence¹²³ and the absence can be registered for up to two years at a time.¹²⁴

The legal effect of registering one's absence from Estonia is that the time the alien remained absent from Estonia will be calculated towards the time the alien has permanently resided in Estonia.¹²⁵ This is for the benefit of the alien wanting to apply for a long-term resident's residence permit or for Estonian citizenship where the time that the alien has permanently resided in Estonia is one of the conditions the applicant has to comply with.

The Aliens Act also foresees that in case an alien has been absent from Estonia for more than 183 days within a year, but there is a good reason why he or she was not able to register his or her absence prior to the absence from Estonia, the Police and Border Guard Board may include this time of absence from Estonia towards the time of permanent residence in Estonia.¹²⁶

¹²⁰ Aliens Act § 252 (1).

¹²¹ Aliens Act § 252 (2).

¹²² Aliens Act § 253.

¹²³ Aliens Act § 257.

¹²⁴ Aliens Act § 255.

¹²⁵ Aliens Act § 254.

¹²⁶ Aliens Act § 256.

During the period from 2004 to 2009 altogether 7 324 aliens have registered their absence from Estonia on the basis of the Aliens Act. Unfortunately, the Police and Border Guard Board does not collect data on the reasons for absence from Estonia.

It can be observed that the current legislation in this respect is very flexible, which in turn encourages positively circulation by removing disincentives to circulation. Namely, with the current legislation, it is possible for the alien to stay away from Estonia (current country of residence), and at the same time not lose any benefits derived from the valid residence permit. The main benefit in this case being the time of permanent residence in Estonia, which is important in case the alien is interested in applying for a long-term resident's residence permit or Estonian citizenship. Current legislation is also important in cases when the alien is holding an Estonian temporary residence permit and moves temporarily to his or her country of origin (or to a third country), but does not want to lose the residence permit. Thus, the legislation removes that one disincentive to circulation, which makes it easier for the alien to stay away from Estonia on a temporary basis and return.

2.3 Co-operation with Third Countries

Estonia has signed altogether three agreements with third countries, which promote and favour temporary migration.

2.3.1 Cooperation with Australia

On 20 September 2004 a Memorandum of Understanding was signed between the Government of the Republic of Estonia and the Government of Australia Relating to Working Holiday Visas.¹²⁷

¹²⁷ RT II 2005, 8, 17. Available online: http://vlepingud.vm.ee/en/contract_view/3905.

The Memorandum is aimed at encouraging exchange of youth between Estonia and Australia by granting multiple entry visas valid for working holidays for a period of twelve (12) months. Article 2 a) of the Memorandum lists the criteria with which citizens of the parties to the Memorandum have to comply with in order to receive the working holiday visa. Eligible persons are those who:

- 1) intend primarily to holiday in Estonia or Australia;
- 2) are aged between 18 and 30 years;
- 3) are not accompanied by dependent children;
- 4) have not previously entered Estonia or Australia on a working holiday visa;
- 5) possess a valid passport and a return travel ticket or sufficient means to purchase such a ticket;
- 6) possess reasonable funds for their maintenance during their period of stay;
- 7) have good health and sound background.

The visa issued under the Memorandum will automatically allow the holder of such visa to work and reside temporarily either in Estonia or Australia with the principal purpose of the visit being a holiday. The work part of the visit is deemed to be incidental to the holiday. It is expected that the holder of the working holiday visa does not work for full 12 months of the visit.

The agreement promotes temporary migration of young people that belong to a certain age group. What makes this agreement promote temporary migration is the fact that the agreement foresees a quantitative restriction according to which the measure can be used only once by the same person.

2.3.2 Cooperation with New Zealand

On 28 September 2006 an Arrangement on a Working Holiday Scheme was signed between the Government of Estonia and the Government of New Zealand.¹²⁸

¹²⁸ RT II 2007, 18, 49. Available online: http://vlepingud.vm.ee/en/contract_view/4186.

On the basis of the Arrangement New Zealand and Estonia issue to the citizens of the other party a work visa valid for twelve (12) months if they satisfy the requirements set out in the Arrangement.

Common requirements for citizens of the parties to the Arrangement in order to be eligible are following:

- 1) Estonian or New Zealand citizen is ordinarily a resident of respectively either Estonia or New Zealand;
- 2) applicant's primarily purpose of visit is holidaying with employment being incidental;
- 3) applicant is aged between 18 to 30 years;
- 4) applicant is not accompanied by children;
- 5) applicant is in a possession of either a return ticket or sufficient fund to purchase such a ticket;
- 6) applicant is in a possession of sufficient funds for maintenance during the period of stay;
- 7) applicant is in a possession of adequate medical insurance;
- 8) applicant complies with health requirements imposed by either party.

According to Article 2 of the Arrangement the Government of New Zealand will issue no more than one hundred work visas per annum, though might make adjustments in that number. There are no similar restrictions imposed by the Estonian side.

2.3.3 Cooperation with Canada

On 14 December 2009 an Agreement between the Government of the Republic of Estonia and the Government of Canada was signed Concerning Youth Exchanges.¹²⁹

¹²⁹ RT II 2010, 16, 68. Available online: http://vlepingud.vm.ee/en/contract_view/3935.

The aim of the Agreement is to promote closer cooperation between respective countries; encourage mobility and exchanges of youth; and develop opportunities for their young citizens to complement their post-secondary education, to acquire work experience, and to improve their knowledge of other country's languages, culture and society.

Eligible persons under the Agreement are:

- 1) young citizens, including post-secondary graduates, who intend to obtain further training in the host country under a pre-arranged contract of employment in support of their career development;
- 2) registered students of a post-secondary institution in their home country who intend to complete part of their academic curriculum in the host country by undertaking a pre-arranged internship or work placement, including in the context of an arrangement between post-secondary institutions;
- 3) young citizens, including registered students, who intend to travel in the host country and who intend to obtain remunerated employment in order to supplement their financial resources.

Eligible persons have to meet following criteria:

- 1) meet requirements of Estonian or Canadian immigration law;
- 2) be between the ages of 18 and 35;
- 3) be an Estonian or Canadian citizen holding a valid Estonian or Canadian passport;
- 4) be in a possession of a departure ticket or sufficient financial means to purchase such ticket;
- 5) not be accompanied by dependants;
- 6) have proof of financial resources to provide for their needs;
- 7) have appropriate medical insurance.

The parties agree to provide the other country's qualified citizens with a legal basis that will allow access to its territory and that shall be valid for a maximum of one year.

Similarly to the Arrangement signed with New Zealand the Agreement with Canada states that the parties shall determine on an annual basis and on the basis of reciprocity the number

of citizens that will be allowed to benefit from the application of the Agreement. For year 2010 the number of citizens allowed to benefit from the application has been set at 200 persons from each side. The number for next year, i.e. 2011 has not yet been set.

The above agreements signed with third countries encourage mainly temporary migration and aim at facilitating the travel of young migrants for the purposes of gaining experience in another country. Unfortunately it is impossible to gain information regarding the use of these instruments by citizens of both parties.

One of the three agreements (agreement with Australia) restricts the number of times that travelling under the agreement is possible. The other two agreements (agreement with New Zealand and Canada) do not restrict the number of times a person may travel under these agreements, but it does restrict the number of persons that may take advantage of these measures annually.

2.4 Other aspects

2.4.1 Transposing of the Blue Card directive

Council Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment¹³⁰ (or so called Blue Card directive) has to be transposed into the national legislation of member states by 19 June 2011.

Draft Amendment Act of the Aliens Act¹³¹ to transpose the Blue Card directive foresees enacting EU Blue Card as a subcategory of temporary residence permit for employment. The general salary threshold has been set in the draft at 1.5 times the average gross annual salary, but the draft also foresees derogation from that (1.2 times the average gross annual salary) as

¹³⁰ OJ L 155, 18.06.2009, pp. 17–29.

¹³¹ Draft Amendment Act of the Aliens Act. Available online:
http://eoigus.just.ee/?act=6&subact=1&OTSIDOC_W=298338.

specified in the Blue Card directive for employment of third-country nationals in certain professions.

According to Article 6 of the Blue Card directive the directive shall not affect the right of a member state to determine the volume of admission of third country nationals entering its territory for the purposes of highly qualified employment. On the basis of that clause, the draft does not foresee exclusion of aliens applying for a EU Blue Card from the immigration quota.

The draft also foresees the right of an alien legally staying in Estonia to apply for the EU Blue Card directly from the Police and Border Guard Board (derogation from the general rule of submitting application at Estonian foreign representation). Additional categories of aliens who may apply for an EU Blue Card directly from the Police and Border Guard Board include those in possession of an EU Blue Card issued by another member state and his or her spouse and close family member in possession of a residence permit issued to them as a family member of an alien in possession of an EU Blue Card.

One of the drafted changes due to the Blue Card directive is related to the long-term resident's residence permit application procedure. In order to be eligible for the long-term resident's residence permit the alien in possession of the EU Blue Card have to have permanently resided in one or more of the EU member states on the basis of the EU Blue Card for five years, including two of them in Estonia immediately prior to the submission of the application. The period of temporary absence from the territory of the EU member states cannot exceed 12 continuous months or 18 months within the last five years for the alien to be considered permanently resident in Estonia.

The draft Amendment Act of the Aliens Act also foresees repealing of the clause in the Aliens Acts, which forbids an alien in possession of a temporary residence permit for studying from applying for a temporary residence permit for employment directly from the Police and Border Guard Board¹³² (except for aliens, who have lived in Estonia, immediately prior to applying for a residence permit on a new basis, for at least two consecutive years on the basis of studying in a secondary school, vocational educational institution or in a vocational

¹³² Aliens Act § 216 (2).

educational institution, institution of professional higher education or university on the basis of an officially certified study programme). This amendment will make it easier for all those third-country nationals studying in Estonia and wanting to continue working in Estonia after graduation who cannot do that due to the above clause in the law. At the moment, a third-country national in possession of a temporary residence permit for studying has to submit his or her temporary residence permit for employment application at the Estonian foreign representation. Estonia has a very limited number of representations in third countries, most of them located in other member states or third countries whose nationals do not need a visa to travel to EU.¹³³ Due to this, students who are third-country nationals and wish to stay to work in Estonia have some difficulties applying for Estonian residence permit. This amendment will ease the legislation in that respect, which will facilitate stay in Estonia of highly qualified migrants.

2.4.2 Temporary/ circular migration and integration

According to the [Estonian Integration Strategy 2008–2013](#)¹³⁴ the number of new immigrants in Estonia is currently quite small and it has not been specifically studied how they cope, for example, in the labour market. And although it is unlikely that between 2008 and 2013 Estonia will become the destination of mass immigration, there is reason to believe that due to the free movement of people in the EU and the rapid economic growth the number of people of foreign descent in Estonia will increase. [...] Presumably, the problems facing new immigrants are different from those facing Russian speakers who have lived in Estonia for a long time – the cultural or language background of new immigrants often differs from that of the Russian-speaking population of Estonia and they have not participated in the integration process aimed at the Russian-speaking population. Based on the experience of other countries, we assume that well integrated new immigrants support and advance the tolerance of the Estonian people towards other nationalities.¹³⁵

¹³³ List of Estonia's embassies and representations is available on the webpage of Estonia's Ministry of Foreign Affairs: <http://www.vm.ee/?q=en/taxonomy/term/42>.

¹³⁴ Estonian Integration Strategy 2008–2013. Available online: http://www.kul.ee/webeditor/files/integratsioon/Loimumiskava_2008_2013_ENG.pdf.

¹³⁵ Ibid, pp. 12–13.

The previous state programme¹³⁶ did not expand to the immigrants who have arrived since restoration of Estonian independence (new immigrants) as a separate target group and hence no separate measures for their integration were planned for them. Integration of new immigrants has thus far not been coordinated by the state and has been project-based, which is why in the Estonian Integration Strategy 2008–2013 it was found necessary to develop and implement measures aimed directly at the integration of new immigrants. Based on this, the measures in the field of social and economic integration were planned under two sub-goals one of which foresaw creation of opportunities for adult new immigrants to integrate into the society (including development and implementation of cultural and language training materials, language and accommodation programmes).¹³⁷

The Report on Implementation of the State Programme ‘Estonian Integration Strategy 2008 – 2013’ Action Plan in 2008 and 2009¹³⁸ noted that an adjustment programme was prepared and piloted in Tallinn, Jõhvi and Tartu, which foresaw measures for recently arrived third country nationals. Altogether 56 persons from 15 countries participated.¹³⁹

2.4.3 Employers’ Manifesto 2011–2015

On the 30 August 2010 the Estonian Employers’ Confederation published its four year action plan in the form of the Employers’ Manifesto 2011–2015.¹⁴⁰ Under the labour market chapter the manifesto stated that *‘in order to avoid the local labour force becoming less employable, Estonia’s labour market must be opened to foreign labour from third countries. It’s especially important for higher qualification labour but, if necessary, short-term labour for low paid jobs (e.g. seasonal or unskilled jobs) should also be promoted. Since cheaper foreign labour used for short-term jobs would not affect the employability of Estonian workers on the labour*

¹³⁶ State Programme ‘Integration in Estonian society 2000–2007’. Available online: http://www.kul.ee/webeditor/files/integratsioon/state_programme111.pdf.

¹³⁷ Estonian Integration Strategy 2008–2013, pp. 23–24.

¹³⁸ Report on Implementation of the State Programme ‘Estonian Integration Strategy 2008–2013’ Action Plan in 2008 and 2009. Available online: http://www.kul.ee/webeditor/files/integratsioon/ELK_2008-2009_aruanne_lyh.pdf.

¹³⁹ Ibid, p. 11.

¹⁴⁰ The Employers’ Manifesto 2011–2015. Available online: http://www.tooandjad.ee/images/pdf/employers_manifesto_2011-2015.pdf.

*market, it would be expedient to lower the prescribed average wage requirement on short-term jobs’.*¹⁴¹

Publication of the manifesto brought on quite a heated public debate in the columns of newspapers. Lead by the Socialist Democratic Party and signed by several trade unions an Employees’ Manifesto¹⁴² was put together, though it does not address the above point of foreign labour from the Employers’ Manifesto.

Following the publication of the Employers’ Manifesto the Deputy Secretary General for Internal Security of Estonian Ministry of the Interior Erkki Koort was interviewed where he stated that mass influx of foreign labour would have dire consequences and the security of local residents would suffer.¹⁴³ He added that there is nothing wrong with bringing in foreign labour in a controlled manner. But, the experience thus far has showed how drastically the need for foreign labour can change over a short period of time.

Additionally, the prime minister of Estonia also addressed the Employers’ Manifesto by expressing an opinion that Estonia needs to be cautious about letting big numbers of low-skilled workers into the country, even in case Estonia did not have a high unemployment rate.¹⁴⁴

On the basis of such public debate it can be concluded that Estonian immigration policy will most likely remain quite conservative. It also confirms the trend of the current policy of Estonia being more open to highly skilled labour.

¹⁴¹ The Employers’ Manifesto 2011–2015 chapter 2 point 5.

¹⁴² Rand, E. Employees’ Manifesto: unemployment rate to 4% in four years. Article published online 15.09.2010. Available online: <http://www.epl.ee/artikkel/583621>.

¹⁴³ Kass, M. Ministry of the Interior sees danger in opening up the country to foreign labour. Article published online 01.09.2010. Available online: <http://www.postimees.ee/?id=307093>.

¹⁴⁴ Jaagant, U. Prime minister Ansip: cautiousness regarding foreign labour. Article published online 10.09.2010. Available online: <http://www.epl.ee/artikkel/583298>.

3. DATA ON CIRCULAR AND TEMPORARY MIGRATION

Table 1. Issued long-term (D) visas 2004–2009.

Year	2004	2005	2006	2007	2008	2009	TOTAL
Issued long-term visas	251	384	518	665	728	405	2951

Source: Ministry of Foreign Affairs

Table 2. Registration of short-term employment by nationality 2004–2009.

Nationality / Gender	2004		2005		2006		2007		2008		2009		TOTAL
	M	F	M	F	M	F	M	F	M	F	M	F	
Ukraine	55	0	69	26	203	40	296	44	239	53	49	21	1095
Russia	107	25	65	132	119	71	85	55	81	29	37	25	831
Moldova	0	0	1	0	19	0	51	6	22	11	0	4	114
Bulgaria	11	2	30	9	46	14	–	–	–	–	–	–	112
Belorussia	0	0	0	1	22	2	19	0	14	7	2	6	73
Other	238		32		43		96		81		60		550
TOTAL	438		365		579		652		537		204		2775

Source: Police and Border Guard Board

Table 3. Registration of short-term employment by type of employment during the period of 2004–2009.

Type of employment	2004	2005	2006	2007	2008	2009	Total by type of employment
Artistic activities or scientific research (Aliens Act § 106 (1) 1) and 3) ⁱ)	49	89	176	124	101	107	646
Teacher or lecturer (Aliens Act § 106 (1) 2))	19	14	15	16	9	7	80
Sportsman, coach, referee or sports official (Aliens Act § 106 (1) 4))	7	8	10	14	23	10	72
Vocational training purposes by way of field training (Aliens Act § 106 (1) 5))	11	139	21	15	13	10	209
Service personnel of a diplomatic representation of a foreign state (Aliens Act § 106 (1) 7))	0	0	0	0	4	17	21
Child minder or domestic help ⁱⁱ (Aliens Act §	0	4	19	12	4	0	39

106 (1) 8))							
Expert, adviser or consultant (Aliens Act § 106 (1) 9))	333 ⁱⁱⁱ	49 ⁱⁱⁱ	130	107	61	10	690
Installer of equipment or a skilled worker (Aliens Act § 106 (1) 10))	-	61	206	347	302	42	958
Seasonal work in the field of agriculture (Aliens Act § 106 (1) 11))	1	0	2	16	19	0	38
Member of the directing body in a legal person registered in Estonia for the performance of directing or monitoring functions ^{iv}	15	0	0	0	0	-	15
Making a direct investment ^v	0	0	0	0	0	-	0
Relocation or foundation of a branch of a foreign company in Estonia ^v	0	1		0	1	-	2
Activities in the framework of an international program of co-operation involving agencies with state or local government participation ^v	3	0	0	1	0	-	4
On the basis of an international agreement	0	0	0	0	0	1	1
TOTAL	438	365	579	652	537	204	2775

Source: Police and Border Guard Board

ⁱ Short-term employment for carrying out artistic activities and scientific research were a combined clause until 14 May 2008, which is why combined data is presented.

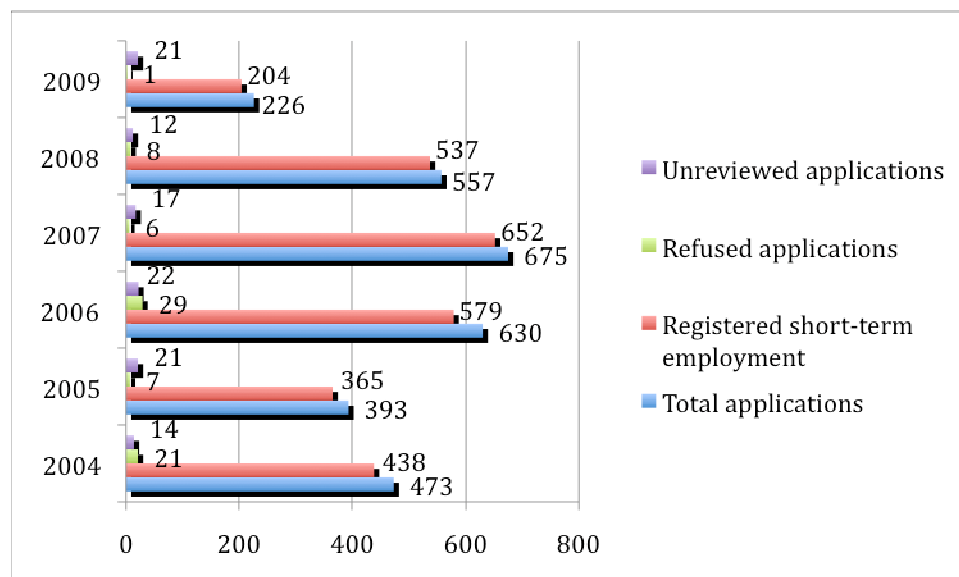
ⁱⁱ Registration of short-term employment for employment as domestic help was repealed on 14 May 2008.

ⁱⁱⁱ Until 1 May 2005 this type of employment combined experts, advisers, consultants and installers of equipment.

^{iv} Basis was repealed on 1 May 2004.

^v Basis was repealed on 14 May 2008.

Chart 1. Application for short-term employment in Estonia 2004–2009.



Source: Police and Border Guard Board

Table 4. Estonia's immigration quota and its fulfilment.

<i>Year</i>	<i>Set immigration quota</i>	<i>Fulfilment percentage</i>	<i>Remainder</i>
2005	677	60%	265
2006	675	87%	86
2007	686	100%	0
2008	1013	84%	160
2009	1002	80%	200
2010	1009	N/A	N/A

Source: Police and Border Guard Board

Chart 2. Comparison of granted residence permits for employment and registration of short-term employment, 2004–2009.



Source: Police and Border Guard Board

Table 5. Granted temporary residence permits by type in the period of 2004–2009.

<i>Type of temporary residence permit</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
Family reunification	766	736	1185	1572	1380	1136
Employment	531	411	565	733	911	1063
Engagement in enterprise	4	6	7	3	56	72
Studying	287	202	207	286	353	392
Sufficient legal income	126	299	43	35	31	56

International agreement	1724	2432	2363	1436	1137	1050
TOTAL	3438	4086	4370	4065	3868	3769

Source: Police and Border Guard Board

Chart 3. Granted temporary residence permits by type 2004–2009.

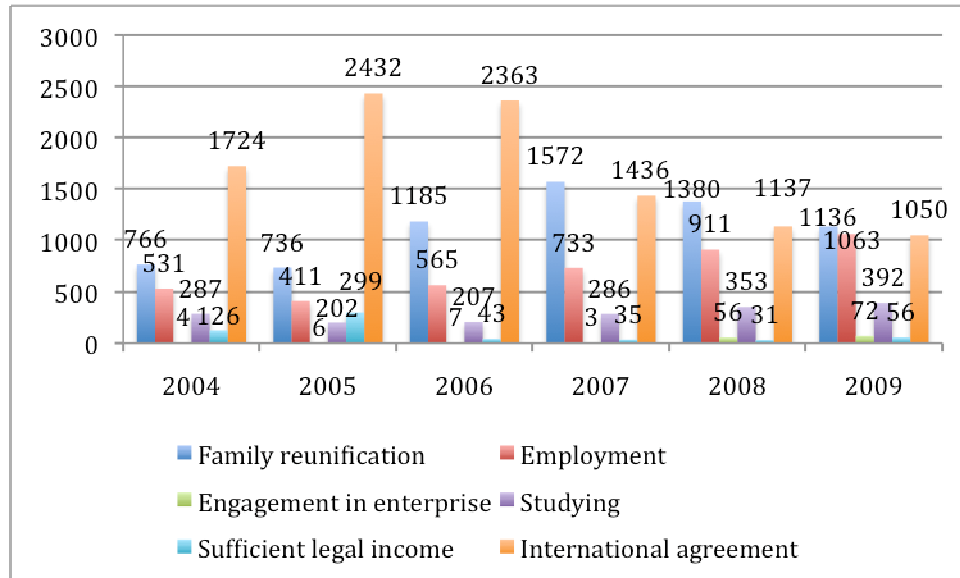


Table 6. Extension of temporary residence permit, 2005–2009.

Year	Number of applications for extension of temporary residence permit	Number of granted extensions of temporary residence permit
2005	7 282	6 489
2006	8 249	8 898
2007	3 009	2 863
2008	3 530	3 351
2009	3 877	3 900
TOTAL	25 947	25 501

Source: Police and Border Guard Board

Chart 4. Comparison of granted temporary residence permits and extensions of temporary residence permits, 2005–2009 .

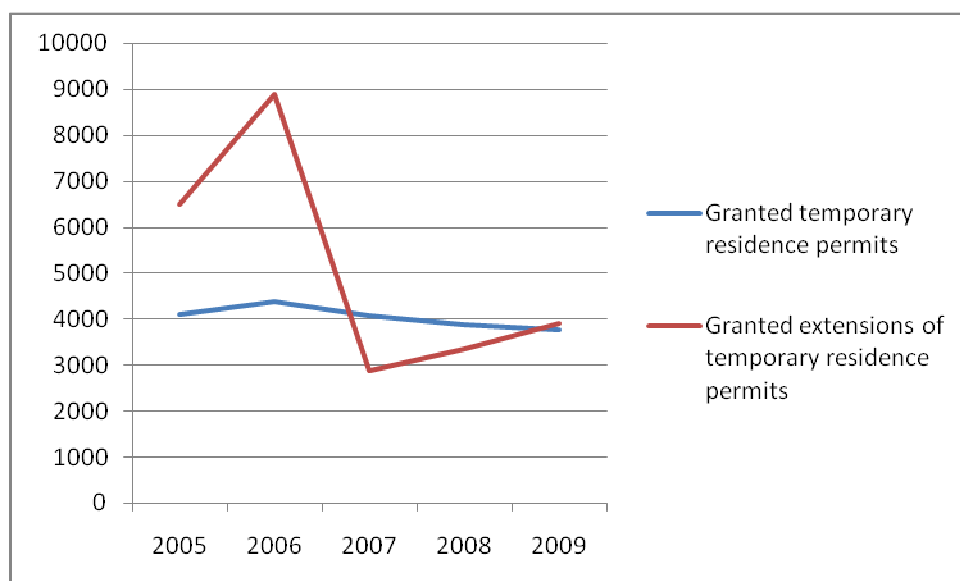


Table 7. State of play of valid residence permits by nationality in the period of 2004–2010.

Nationality	01.01.2004	01.01.2005	01.01.2006	01.01.2007	01.01.2008	01.01.2009	01.01.2010
Unidentified citizenship	162 075	150 536	136 000	125 799	116 217	110 284	104 785
Russia	88 130	91 424	93 027	95 658	95 841	96 616	98 024
Other	12 352	13 164	14 769	8 143	8 779	9 445	9 814
TOTAL	262 557	255 124	243 796	229 600	220 837	216 345	212 623

Source: Police and Border Guard Board

Table 8. State of play of valid temporary and long-term resident's residence permits by type 2004–2010.

Type of residence permit	01.01.2004	01.01.2005	01.01.2006	01.01.2007	01.01.2008	01.01.2009	01.01.2010
Temporary residence permit	51 251	47 375	36 348	26 116	23 722	24 910	25 212
Long-term resident's or permanent residence permit	211 306	207 749	207 448	203 484	197 115	191 435	187 411
TOTAL	262 557	255 124	243 796	229 600	220 837	216 345	212 623

Source: Police and Border Guard Board

Chart 5. State of play of valid temporary and long-term resident’s residence permits by type 2004–2010.

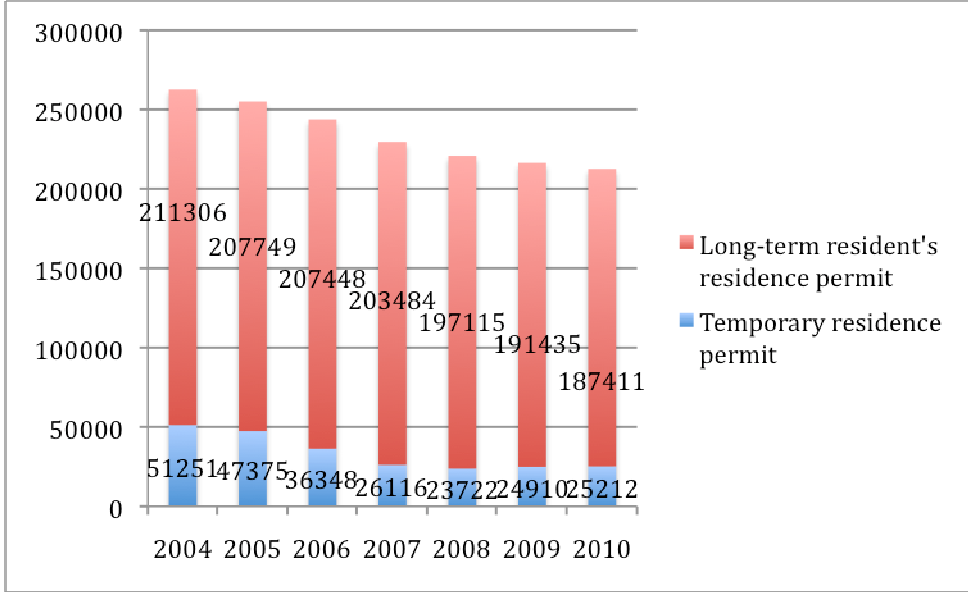


Table 9. Temporary and permanent residence permits or long-term resident’s residence permits issued in the period of 2004–2009.

Type of residence permits	2004	2005	2006	2007	2008	2009
Temporary residence permits	3 438	4 085	4 370	4 065	3 868	3 769
Long-term resident’s or permanent residence permits	4 219	9 210	7 090	3 068	786	896
TOTAL	7 657	13 295	11 460	7 133	4 654	4 665

Source: Police and Border Guard Board

Chart 6. Temporary and permanent or long-term resident's residence permits issued 2004–2009.

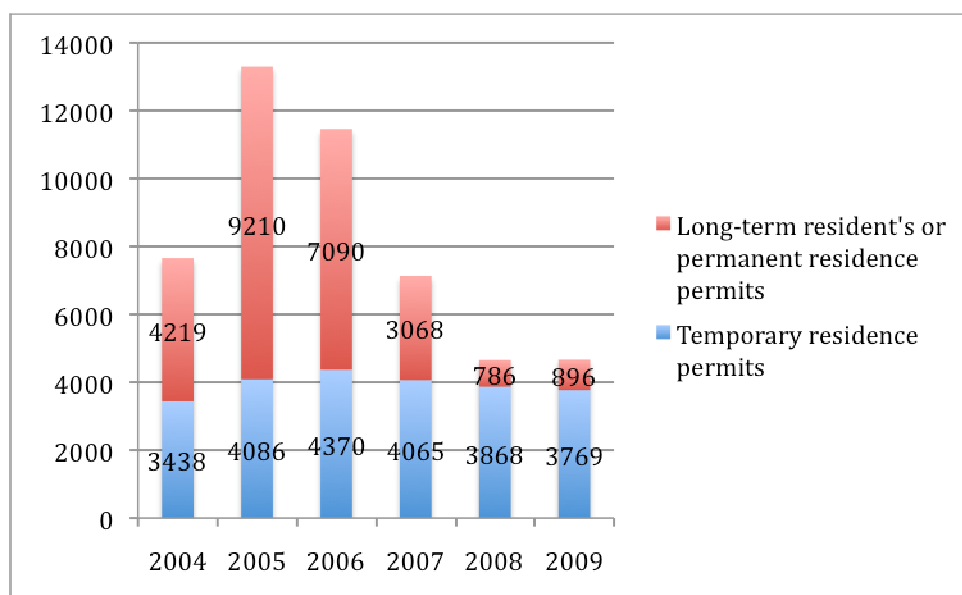


Table 10. Refusals to extend temporary residence permits by grounds, 2004–2009.

<i>Grounds for refusal to extend a temporary residence permit</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>TOTAL</i>
Submission of false information by the alien	0	1	0	0	0	0	1
Alien has been committed of a criminal offence for which he or she has been sentenced to imprisonment of more than one year and his or her criminal record has neither expired nor been expunged, or the information concerning the punishment has not been expunged from the punishment register	10	3	0	0	1	0	14
Alien has been repeatedly punished pursuant to criminal procedure for an intentionally committed criminal offence	1	1	0	0	0	0	2
Basis for issue or extension of residence permit has ceased to exist	1	10	1	1	0	1	14
Non-comforming with conditions for extension or issuance of residence permit	11	6	2	0	2	3	24
Unjustified application	21	35	26	14	14	16	126
Alien has committed to leaving Estonia, received a residential space abroad within the framework of an international aid	2	1	1	0	0	0	4

programme or support for leaving Estonia							
Application to settle with spouse is either unjustified or non-conforming with conditions for issuance of residence permit	0	4	0	0	0	0	4
Basis to issue or extend residence permit to settle with spouse has ceased to exist	3	2	2	0	1	0	8
Spouse of the alien with whom the alien wishes to settle does not reside in Estonia	10	15	20	5	2	7	59
Spouse of the alien is not compliant with set conditions	1	0	0	0	0	0	1
Application to settle with close relative is non-conforming with conditions for issuance of residence permit	1	2	2	1	0	0	6
Basis to issue or extend residence permit to settle with close relative has ceased to exist	1	2	1	2	1	1	8
Close relative of the alien with whom the alien wishes to settle does not reside in Estonia	6	7	5	7	3	9	37
TOTAL	68	89	60	30	24	37	308

Table 11. Return support statistics for the period of 2004–2009.

	2004	2005	2006	2007	2008	2009
Number of applicants of return support	36	12	40	144	242	42
Total amount paid (in Estonian kroons)	397 000.-	197 000.-	795 000.-	2 005 000.-	1 907 500.-	695 000.-

Source: *Integration and Migration Foundation Our People*

4. CONCLUSIONS

Since regaining independence Estonia's immigration policy has remained conservative. At the same time, the state relates to the market need for foreign labour, but also for the need of other kinds of migration, e.g. studying, and has, over the years, made amendments that encourage temporary and circular migration. Yet, there are still clear quantitative and qualitative restrictions set out with which the alien has to comply with, e.g. salary criterion, immigration quota etc.

Despite these restrictions, the situation at the labour market defines the need for foreign labour by the employers. The restrictions are there so that migration would take place in a controlled manner with the possibility of state interference. If there is no reason for the state to interfere, e.g. the employer is has no tax arrears, the alien is not considered to be a threat to the public order and internal security, etc., the employer may hire a third-country national who satisfies its need for a specific labour.

The immigration quota may be used as an indicator for additional need of foreign labour. If the immigration quota fills up quickly throughout the year, then it is clear that the need for foreign labour is greater than the set quantitative limit. The immigration quota has not fulfilled in the past couple of years, which supports the government's action of setting annual amount at a smaller value than the allowed maximum.

Ability of the alien staying in Estonia on the basis of residence permit to register his or her temporary absence from Estonia without losing any benefits of owning a residence permit can be highlighted as one of the best practices.

Current legislation is very flexible and encourages circulation by removing disincentives to circulation. The current legislation allows for the alien to stay away from Estonia (country of residence), and at the same time not lose any benefits derived from the residence permit. The main benefit in this case being the time of permanent residence in Estonia, which is important in case the alien is interested in applying for a long-term resident's residence permit or Estonian citizenship. It is also important in cases when the alien is holding an Estonian temporary residence permit and moves temporarily to his or her country of origin (or to a

third country), but does not want to lose the residence permit. Thus, the legislation removes that one disincentive to circulation, which makes it easier for the alien to stay away from Estonia on a temporary basis and facilitates return.

At the same time, it should be noted, that at the moment Estonia does not collect data on the reasons why aliens stay away from Estonia. As of 1 October 2010, those in possession of the long-term resident's residence permit are also obliged to register their absence, be it in a third country or in another member state.

In order to be able to get a better idea of the patterns of circular migration, it would be good to gather data on the reasons of absence of aliens on a temporary basis.

It should be noted that there have been several other amendments in the Estonian legislation that encourage temporary migration, e.g. possibility to apply for a residence permit for studying in a Master's or Doctoral study from the Police and Border Guard Board etc. These on one hand small amendments are important for a small country like Estonia with limited representation in third countries, since they make Estonia more attractive to highly qualified students from third countries.

Short-term employment registration, which can be qualified under the temporary workers' programme, is another tool, which can be highlighted as best practices for promoting (managed) circular migration. The programme, which has been in place for a number of years and has virtually remained the same, has proved to be quite effective in tackling short-term need of labour, mostly for skilled labour. The salary criterion has been enacted as of 2008 in case of short-term employment, similarly to temporary residence permit for migration, which has prevented employers' from bringing in cheap labour and ensured that rather skilled labour that there is an actual need for is brought in.

Estonia has also been supporting temporary migration by concluding agreements with third countries, which are aimed at facilitating travel to respective countries for young people, who are able to gain experience of living and working in a foreign country.

Another important course of the policy for Estonia is attracting the Diaspora, which is a kind of circular migration. The outcome of measures undertaken so far show that Estonians are

willing to return to Estonia, but there are certain conditions, mostly related to work, whether the offered position is attractive enough in regards to the position and pay, etc. The reasons for return of Estonians, who have stayed abroad for a long time range from family reunification to better living and working conditions. By attracting back the Diaspora, Estonian government is doing also its part in filling the labour market with skilled and highly qualified labour that the employers' are in need of, which also means that the employers are in less of a need for foreign labour.

Measures being implemented for attracting back the Diaspora may also be highlighted as best practices, but unfortunately it is difficult to assess their full effectiveness as of yet.

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