



**Third Focussed Study 2012**

**INTRA-EU MOBILITY OF THIRD-COUNTRY  
NATIONALS**

*French National Contact Point for the  
European Migration Network*

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## PRESENTATION OF THE FRENCH CONTACT POINT

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## **INTRA-EU MOBILITY OF THIRD-COUNTRY NATIONALS**

*Study conducted by the National Contact for France of the European Migration Network  
(EMN)*

**February 2013**

### **Disclaimer**

*The FR EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of France. The FR EMN NCP accept no responsibility or liability whatsoever with regard to the use made of the information contained in this study.*

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## LIST OF ACRONYMS

- AME: France's state medical aid (*Aide médicale d'État*)
- AGDREF: Application for Managing the Files of Foreign Nationals in France (*Application de gestion des dossiers des ressortissants étrangers en France*)
- BTP: Construction and public works (*Bâtiment et travaux publics*)
- CAI: Integration and Reception Contract (*Contrat d'accueil et d'intégration*)
- CESEDA: Code on Entry and Residence of Foreigners and Right of Asylum (*Code de l'entrée et du séjour des étrangers et du droit d'asile*)
- CMU: Universal health insurance (*Couverture maladie universelle*)
- DIRECCTE: Regional Directorate for Enterprises, Competitiveness, Consumer Protection and Employment (*Direction régionale de l'entreprise, de la concurrence, de la consommation, du travail et de l'emploi*)
- DGT: Directorate-General for Employment (*Direction générale du travail*)
- ELIPA: Longitudinal Study on the Integration of First-Time Arrivals (*Enquête longitudinale sur l'intégration des primo-arrivants*)
- ENIC-NARIC: European Network of Information Centres - National Academic Recognition Information Centres
- ETAM: Clerical, technical and supervisory staff (*Employés, techniciens et agents de maîtrise*)
- ETT: Temporary employment agencies (*Entreprises de travail temporaire*)
- SMIC: Statutory minimum wage (*Salaire minimum de croissance*)

## CONTENTS

<b>LIST OF ACRONYMS</b> .....	4
<b>EXECUTIVE SUMMARY</b> .....	7
<b>SECTION 1: THE NATIONAL LEGISLATIVE FRAMEWORK: VISAS AND RESIDENCE PERMITS</b> .....	8
<b>I. Groups of third-country nationals who enjoy mobility rights under the EU's migration Directives</b> .....	8
1.1 Long-term residents in another Member State.....	8
1.2 EU Blue Card holders .....	9
1.3 Researchers.....	10
1.4 Students .....	10
1.5 Posted workers .....	11
<b>II. Groups of third-country nationals who are not provided for by the EU acquis</b> .....	12
2.1 Cross-border workers .....	12
2.2 Seasonal workers.....	12
2.3 Workers in regulated professions.....	13
2.4 Other categories of migrant workers.....	13
<b>SECTION 2: SCALE AND SCOPE OF THE PHENOMENON</b> .....	14
2.1. Statistics on overall intra-EU mobility of third-country nationals in France.....	14
2.2. Statistics based on different groups of mobile third-country nationals in France.....	15
2.3. Other sources of statistics.....	25
2.4. Statistics on the flows of EU nationals in France.....	27
<b>SECTION 3: IDENTIFIED RESTRICTIONS TO INTRA-EU MOBILITY OF THIRD-COUNTRY NATIONALS</b> .....	28
3.1. Restrictions relating to the labour market: preference for EU nationals.....	28
3.2. Minimum wage .....	30
3.3. Restrictions relating to self-employment .....	30
3.4. National rules and procedures relating to recognition of qualifications .....	30
3.5. Access to social security and social services .....	31
3.6. Rights granted to family members .....	32
<b>SECTION 4: CONCLUSIONS</b> .....	33
<b>ANNEXES</b> .....	35
<b>ANNEX 1. TABLES</b> .....	35
<b>ANNEX 2 - BIBLIOGRAPHY</b> .....	39

## TABLES AND IMAGES

<b>Graph 1: Distribution of economically active third-country nationals aged 15 and over by sector of activity coming from another Member State .....</b>	<b>15</b>
<b>Table 1: Distribution of long-stay male and female residents coming from another Member State for 2011 .....</b>	<b>16</b>
<b>Graph 2: Distribution of long-term residents coming from another Member State for 2011, by year of birth .....</b>	<b>17</b>
<b>Graph 3: Distribution of long-term residents coming from another Member State for 2011, by continent of origin .....</b>	<b>17</b>
<b>Table 2: Number of student visas issued by French consulates in EU Member States.....</b>	<b>19</b>
<b>Table 3: Number of student visas issued from 2008 to 2011 .....</b>	<b>19</b>
<b>Graph 4: Distribution of third-country national cross-border workers, by nationality .....</b>	<b>22</b>
<b>Table 4: Distribution of cross-border workers by region (in %).....</b>	<b>23</b>
<b>Map 1: Geographical distribution of cross-border third-country nationals .....</b>	<b>24</b>
<b>Table 5: Number of visas issued by French consulates in EU Member States.....</b>	<b>25</b>
<b>Table 6: Total number of visas issued for professional reasons .....</b>	<b>25</b>

## EXECUTIVE SUMMARY

The objective of this study is to evaluate the **main issues and challenges** relating to intra-EU mobility of third country nationals.

In the context of this study, '**intra-EU mobility**' refers to movements from one EU Member State to another EU Member State normally to stay for more than three months and principally for the purpose of work.

From a legal perspective, '**third-country national**' refers to any person who is not a citizen of the European Union within the meaning of Article 20(1) of the Treaty on the Functioning of the European Union, and who is not a person enjoying the Union right to freedom of movement as defined in Article 2(5) of the Schengen Borders Code.<sup>1</sup>

**Specific legal instruments** govern the intra-EU mobility of third-country nationals, depending on their status. While EU citizens, in line with the Treaty on European Union, have the right to move and reside freely on the territory of Member States, only certain categories of migrant workers may benefit from rights in terms of intra-EU mobility, on the basis of the **EU acquis**. These include **long-term residents, EU Blue Card holders, students, researchers, and posted workers**. Groups of third-country nationals who are not provided for by the European Directives are covered by the **national legislation of Member States**. In particular, these include **cross-border workers, seasonal workers and workers in regulated professions**.

This study thus looks at **legislation relating to intra-EU mobility of third-country nationals** and highlights the differences which exist between the categories of migrants provided for in **European legal instruments** and those covered by **national regulations and procedures**. Although measures to facilitate intra-EU mobility of migrant workers exist within the acquis, several challenges still remain. Indeed, the study shows that the categories covered by national legislation are often subject to the same obligations as third-country nationals arriving for the first time in France from a third country.

Analysis of **statistical data** allows the **scale and scope of the phenomenon** within the EU to be identified, as well as the characteristics of each specific Member State. In France, this information may be drawn from several tools, such as the population census or the AGDREF (Application for Managing the Files of Foreign Nationals in France). However, the lack of available data makes it difficult to precisely analyse the phenomenon.

Finally, the challenge is to address any **obstacles** to intra-EU mobility of third-country nationals, often connected to labour market policy. Several factors may **influence the decision** as to whether to come to live in France.

Based on studies from National Contact Points, the European **Synthesis Report** will provide an overview of all Member States, shedding light on current trends and identifying challenges and obstacles to intra-EU mobility for third-country nationals. More broadly, the study will lead to reflection upon measures which could facilitate intra-EU mobility for third-country national workers, in order to more effectively respond to labour market needs in Member States and in specific sectors.

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<sup>1</sup> Source: Source: EMN Glossary 2.0. <http://emn.intrasoft-intl.com/Glossary/index.do>

## SECTION 1: THE NATIONAL LEGISLATIVE FRAMEWORK: VISAS AND RESIDENCE PERMITS

The rules which apply to third-country nationals holding a residence permit issued by another Member State, and who wish to reside in France for reasons of employment, vary depending on their status. For some categories of migrant workers, this mobility may be governed by European legislation. For others, they may be covered by national legislation. The objective of this initial section is thus to study the content of the applicable legislation in terms of mobility of these two groups of migrants. The information collated will identify to what extent mobility towards France of third-country nationals already resident within the EU is facilitated in comparison with foreigners immigrating to France for the first time from a third country.

This first section will also examine whether there is a difference in treatment in terms of access to mobility between third-country nationals already residing within the EU and EU citizens. Generally speaking, EU citizens enjoy the right of freedom to move and reside across the whole of the EU. As they are not obliged to hold a residence permit to live in France, they only have to fulfil very simple formalities. EU citizens wishing to live and work in France must hold a valid identity card or passport. For the first five years of their stay, they must be able to prove that they fall within the category of 'workers'. Employees must be able to present a declaration of appointment issued by their employer or an employment contract. Non-salaried workers must provide any document proving the existence and sustainability of their activity (registration with the *'Registre du Commerce et des Sociétés'* or with the *'Répertoire des Métiers'* etc.). Some restrictive measures have been maintained however, for a transitional period for citizens from Member States which have recently joined the EU, i.e. Bulgaria and Romania, in terms of free access to the labour market. They may, in some cases, be obliged to hold a residence permit. Moreover, this can often only be obtained after a work permit has been issued.<sup>2</sup>

### **I. Groups of third-country nationals who enjoy mobility rights under the EU's migration Directives**

While the EU *acquis* offers all third-country nationals residing in a Member State the possibility of free movement within the Schengen Area, it only grants the right to reside in another Member State to certain categories of migrant workers. These are third-country nationals who have acquired the status of **long-term residents in a Member State, EU Blue Card holders, researchers, students and posted workers**.

#### **1.1 Long-term residents in another Member State**

According to Articles L. 313-4-1 and R. 313-34-1 of the Code on Entry and Residence of Foreigners and Right of Asylum (CESEDA), third-country nationals holding the status of long-term resident in another EU Member State may obtain a temporary residence permit, on the condition of having made their request within three months of entering France, granting

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<sup>2</sup> There is an exception for young Bulgarians and Romanians holding a degree which is at least equivalent to a Masters obtained in France. They may work freely in France without holding a residence or work permit.



them rights corresponding to their specific situation (**visitor, student, researcher, exercising a professional activity**) if they can demonstrate:

- **their own resources** (i.e. excluding social benefits and allowances other than the adult disability allowance) which are **stable** and **sufficient** (at least equal to the minimum wage (SMIC));
- **health insurance;**
- **appropriate housing.**

Third-country nationals must also hold specific documents usually required for issuing a temporary residence permit corresponding to the reason for their residency,<sup>3</sup> **with the exception, however, of the long-stay residence visa, which is required in the case of first immigration from a third country.**

The exercise of a salaried professional activity requires that the employment contract be approved by the regional unit (foreign employment service) of DIRECCTE (Regional Directorate for Enterprises, Competitiveness, Consumer Protection and Employment).

By comparison, EU citizens wishing to exercise a professional activity in France must complete the formalities set out in the introduction to this first section. In order to study in France, European students must meet the conditions defined in Point 1.4 of this section. In relation to exercise of a salaried activity, Bulgarian and Romanian citizens also require a residence permit. They may only receive this after a work permit has been issued.

## 1.2 EU Blue Card holders

According to Articles L. 313-10 and R. 319-1 of the CESEDA, third-country nationals who can demonstrate that they have lived for **at least eighteen months** in another EU Member State through an EU Blue Card issued by this Member State may obtain a temporary 'EU Blue Card' residence permit, if they request this within one month of entering France and if they fulfil the following conditions:

- they must hold a degree demonstrating at least **three years of higher education** issued by a higher education establishment recognised by the State in which this establishment is based or at least **five years of professional experience** at a comparable level;
- they must also hold an **employment contract** lasting at least **twelve months**, with a salary which is at least equal to **one and a half times the average annual gross salary.**

These provisions also apply to third-country nationals immigrating for the first time from a third country, **although they also require a long-stay visa.**

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<sup>3</sup> The temporary residence permits which may be issued are:

- temporary residence permit for '**visitors**';
- temporary residence permit for '**students**';
- temporary residence permit for '**researchers**';
- temporary residence permit for '**artistic and cultural professionals**';
- temporary residence permit for '**employees**', '**temporary workers**', or which permits the exercise of a commercial, industrial or craft profession or a professional activity which does not require authorisation.

In comparison, EU citizens wishing to exercise a highly qualified activity in France must complete the formalities set out in the introduction to this first section. In relation to exercise of a salaried activity, Bulgarian and Romanian citizens also require a residence permit. They may only receive this after a work permit has been issued.

### 1.3 Researchers

Third-country national researchers benefit from the right to intra-EU mobility. However, as indicated by Articles L 313-8 and R. 313-12 of the CESEDA, the conditions required to be able to reside in France with the aim of conducting research vary according to the length of stay:

- If the hosting agreement has been concluded in another European State, the third-party national may conduct research in France for a maximum duration of **three months** with a researcher residence permit as issued by another Member State. They must provide the French authorities with the **hosting agreement** signed by this State and prove that they have **sufficient resources**.
- If their stay in France lasts **more than three months**, third-country nationals must request a **residence permit** from their local Prefecture. To obtain this, third-country nationals must hold a degree at least equivalent to a Masters and must present a **hosting agreement** signed with a registered public or private body in France which conducts research or higher education activities, attesting to their scientific position as well as the subject and duration of their stay in France.

Third-country nationals immigrating to France for the first time from a third country must fulfil these same conditions. In the latter case, the right to residency is, in addition, conditional upon presenting a **long-stay visa for more than three months**.

In comparison, EU citizens not falling within the transitional regime and who wish to conduct research in France must complete the formalities set out in the introduction to this first section if they are considered to be employees, or those set out in Point 1.4 if they fall within the student category. Bulgarian and Romanian citizens are subject to similar measures to those covering third-country nationals who are already resident within the EU, unless they hold a degree at least equivalent to a Masters in France and issued by an approved higher educational institution.

### 1.4 Students

Third-country nationals who already hold a residence permit or long-stay 'D' visa issued by a Member State of the Schengen Area may come to study in France:

- **without a visa, for a stay of less than three months;**
- **with a long-stay visa** if the stay in France is planned to last **more than three months;**
  - **with a temporary long-stay visa exempting them from a residence permit** if the stay is **between three and six months;**
  - **with a long-stay visa equivalent to a residence permit with a maximum duration of twelve months** if the stay is **longer than six months.**

They may submit their request for a visa to the Member State in which they reside. These provisions relate to both foreign students wishing to come and study in France in the

framework of a European programme and to those wishing to continue their studies in France outside exchange programmes.

It should be specified that the conditions for issuing a long-stay visa for study purposes to third-country nationals holding a residence permit or a long-stay visa issued by an EU Member State, are identical to that of third-country students requesting a visa for study purposes in France for the first time from a third country.

In order to facilitate the mobility of **Erasmus Mundus foreign students** within the EU, instructions have been issued to consular offices. Requests made within the context of European programmes are **processed more simply and quickly. Visa charges are waived** for students falling within these programmes. However, there is currently no particular procedure aiming to simplify the admission of foreign students who are studying in another Member State and who want to continue their studies in France outside of exchange programmes.

In comparison, to study in France, EU citizens must be enrolled either in an institution where they intend to follow the majority of their studies or in vocational training, must hold health/maternity insurance and must have sufficient resources for themselves and, if applicable, members of their family, in order that they do not become a burden on the social assistance system.

### 1.5 Posted workers

According to Article R. 5221-2 of the French Labour Code, in connection with Articles L. 1262-1 and 1262-2 of the same Code, third-country nationals who are employees posted by a company based in an EU Member State within the context of the provision of cross-border services do not need an entry visa to stay in France, unless the Member State in which the individual formerly resided does not belong to the Schengen Area.<sup>4</sup> In all cases, a residence permit for « **employee of a service provider based in the EU** », is issued. In order to obtain this permit, third-country nationals must present:

- **proof of the activity conducted prior to the service in question;**
- **proof of their residence and employment situation in the Member State from which they are coming;**
- **proof of the service to be provided.**

They benefit from **an exemption from obtaining a work permit** on the condition that they fulfil certain conditions, i.e. be a regularly employed worker from the EU company which is posting them, hold a valid residence permit from this EU country, and do the same job as that which they occupied in the other Member State.

These provisions also relate to posted workers of Romanian or Bulgarian nationality. In contrast, EU citizens who do not fall within the transitional regime only need to present proof of the service to be provided (sub-contractor contract, service contract, service order, etc.).

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<sup>4</sup> The Member States which do not belong to the Schengen Area are: Ireland, the United Kingdom, Bulgaria, Romania and Cyprus.

This procedure is markedly different from that enabling third-country nationals not residing on the European territory and employed by a foreign company to be posted to France.

EU legislation clearly establishes the right to mobility for the categories of migrant workers mentioned above.

In most cases, mobility is facilitated by the fact that third-country nationals are not required to hold a long-stay visa. In the case of students, this right to mobility may also be reflected in faster and simpler procedures for issuing a visa.

Although there are no restrictions on most EU citizens, this sub-section notes that Bulgarian and Romanian citizens may still be covered by rules which are similar to these relating to third-country nationals already residing the EU. Because the EU acquis only applies to a small part of all movements of third-country nationals within the EU, it is essential to establish to what extent groups of third-country nationals who are not provided for by this acquis may have access to mobility within Europe.

## **II. Groups of third-country nationals who are not provided for by the EU acquis**

A large number of third-country nationals are not provided for by the EU acquis. The right to establish residency in France after having stayed in another EU Member State is governed by national legislation.

### 2.1 Cross-border workers

A third-country national residing in another EU Member State and wishing to be employed as a cross-border worker in France must hold an **entry visa**, present a valid **residence permit** which has been delivered by another Member State, and obtain a **work permit** in line with the legal procedures for introducing foreign workers. The conditions for issuing the entrance visa are identical to those which third-country nationals must meet when they request an employment visa in France for the first time from a third country.

In comparison, to work as a cross-border worker in France, Bulgarian and Romanian citizens must also hold a residence permit as well as an employment permit. EU citizens who do not fall within the transitional regime are exempt from this type of obligation.

### 2.2 Seasonal workers

Holding a residence permit issued by another EU Member State does not facilitate access to residency for third-country nationals in relation to seasonal work in France. The procedure to be implemented is the same as that of common law which applies to third-country nationals immigrating to France for the first time from a third country.

### 2.3 Workers in regulated professions

Third-country nationals wishing to come to France and practise a profession that is regulated, are subject to the same national regulations and procedures as those applicable to third-country nationals immigrating to France for the first time.

### 2.4 Other categories of migrant workers

Residence permits issued by another EU Member State have no impact upon admission for residency of a third-country national wishing to come to France to exercise a professional activity other than those mentioned above.<sup>5</sup>

\*\*\*\*\*

In contrast to categories of migrant workers provided for by the EU acquis, the right to mobility is not guaranteed for groups of third-country nationals holding residence permits issued by another EU Member State and whose rights in terms of entry and residence in France are covered by national legislation. Indeed, in most cases, they are often subject to the same obligations as third-country nationals arriving for the first time in France from any third country.

Ultimately, this first section has highlighted the fact that, in the case of France, only a small segment of all the categories of migrant workers benefit from the right to mobility. These third-country nationals provided for by the EU acquis must however meet more demanding conditions compared to the formalities which EU citizens must accomplish, should they wish to establish residency in France. Only Bulgarian and Romanian citizens may, in some cases, still be subject to regulations which are similar to those applied to mobile third-country nationals.

The second section of this study aims to identify to what extent third-country nationals exercise this right to mobility in practice. It also involves measuring the scale of the phenomenon of intra-EU professional mobility of third-country nationals who currently do not benefit from this right but who may represent a significant share of the labour market.

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<sup>5</sup> This may include a salaried or temporary activity, an artistic and cultural occupation, a commercial, craft or industrial occupation, or any other professional activity which is not subject to authorisation.

## SECTION 2: SCALE AND SCOPE OF THE PHENOMENON

Based on the available data, the objective is to measure the scale and scope of the phenomenon of intra-EU mobility of third-country nationals in France. This involves not only studying the mobility of third-country nationals as a whole, but also conducting a more in-depth analysis of the characteristics of different groups of third-country nationals.

The lack of available data, however, makes precise evaluation of the scope of this phenomenon difficult.

### 2.1. Statistics on overall intra-EU mobility of third-country nationals in France

Statistics were collated from the **population census conducted in 2008**.<sup>6</sup>

In the context of this study, the census is valuable because it provides information on the **Member State of previous residence**. In 2008, one of the questions asked was formulated as follows: 'Where were you five years ago?'.<sup>7</sup> This question identified the group of third-country nationals who answered that they had been living in another Member State five years previously. Because the census is conducted on a **sample of individuals**, the number of third-country nationals coming to France from another Member State cannot be precisely evaluated, but it does show a trend, and enables the characteristics of this group to be analysed.

- *Demographic profile*

In the context of the census conducted in 2008, 12,576 third-country nationals were living in another Member State five years previously. 48% of them were women. The average age of this group was 32.7 years. It was 32.8 years for men and 32.6 years for women.

Of third-country nationals coming to France from another EU Member State, the three top nationalities were Moroccans (18.6%), Americans (7.5%) and Algerians (6.2%).

- *Professional profile*

The top socio-professional categories were manual labourers, employees, managers and higher intellectual professions. Nearly a third of economically active third-country nationals over the age of fifteen were manual labourers (31.2%). Moreover, this was the biggest category among men (45.4%).

Next came the category of employees, representing 21.8% of third-country nationals coming to France from another Member State. This category also represented the most women (38.3%).

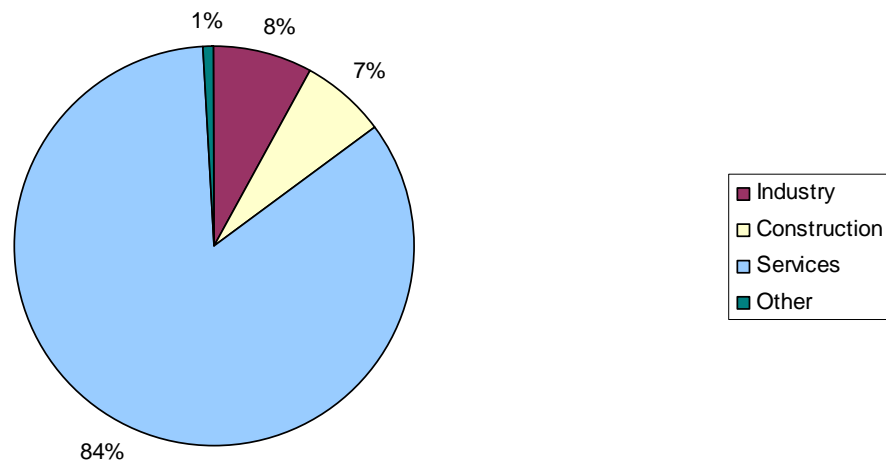
Finally, 20.4% of this group were managers or held a higher intellectual profession.

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<sup>6</sup> Population censuses are conducted in France each year on a large sample of individuals. They enable statistics to be collated on the number of inhabitants and their characteristics, such as age and profession. In 2004, a new collection method was implemented according to which communes were identified based on a threshold population legally set at 10,000 inhabitants. This data collection exercise reaches a fraction of the population each year and it thus replaces the exhaustive data collection exercise which previously took place every eight or nine years.

<sup>7</sup> The most recent census dates from 2009. However, because of changes which have taken place since 2004 and because the question relating to the Member State of former residence had been reworded, for the purposes of this report, it was necessary to focus upon the 2008 census.

**Graph 1: Distribution of economically active third-country nationals aged 15 and over by sector of activity coming from another Member State**



Source: 2008 Population Census.

The biggest field of activity was the services sector, representing 84% of economically active third-country nationals over the age of 15.

- *Skills profile*

More than half of economically active third-country nationals coming from another Member State had obtained a qualification equivalent to the General Baccalaureat (French school leaving certificate) or had attended higher education.

Nearly a third of economically active third-country nationals (30.9%) held a graduate or post-graduate qualification. 14.5% had obtained a General Baccalaureat or Brevet Supérieur (advanced diploma). Around 14% of this group held no qualification but had completed primary or secondary school.

Although analysis of the statistics on the overall professional intra-EU mobility of third-country nationals enables some general trends to be identified, the different groups of mobile third-country nationals in France need to be examined more closely in order to analyse their characteristics.

## [2.2. Statistics based on different groups of mobile third-country nationals in France](#)

Statistics relating to different groups of mobile third-country nationals in France may be drawn from various sources, such as administrative registrations or surveys. Analysis of this



data sheds light upon the characteristics of each group, so that differences between the groups provided for in the acquis and others can be studied.

**a) Groups of third-country nationals who enjoy mobility rights under the EU's migration Directives**

The EU acquis only applies to a small part of all movements of third-country nationals within the EU. The following statistical data allows the scale which they represent, depending on the various groups to be identified.

**1) Long-term residents coming from another Member State<sup>8</sup>**

The number of long-term residents coming from another Member State may be obtained from the AGDREF software (Application for Managing the Files of Foreign Nationals in France).<sup>9</sup> It should be noted, however, that not all Prefectures provide accurate data, and hence this must be analysed with caution. The information does, however provide an estimate of this phenomenon. When using the IT software, Prefecture staff must complete a field relating to the Member State of former residence, which most of the time is completed incorrectly and France is marked by default.

According to AGDREF data, the number of long-stay residents coming from another Member State per year that the residence permit was approved was 3,257 in 2011, 3,296 in 2010 and 3,463 in 2009.<sup>10</sup>

➤ *Demographic profile*

**Table 1: Distribution of long-stay male and female residents coming from another Member State for 2011**

Sex	Total
Women	1,530
Men	1,727
<b>Total</b>	<b>3,257</b>

Source: SGII / DSED

For 2011, around 53% of long-term residents coming from another Member State were men. Most of this population are single (81%); only 17% are married.

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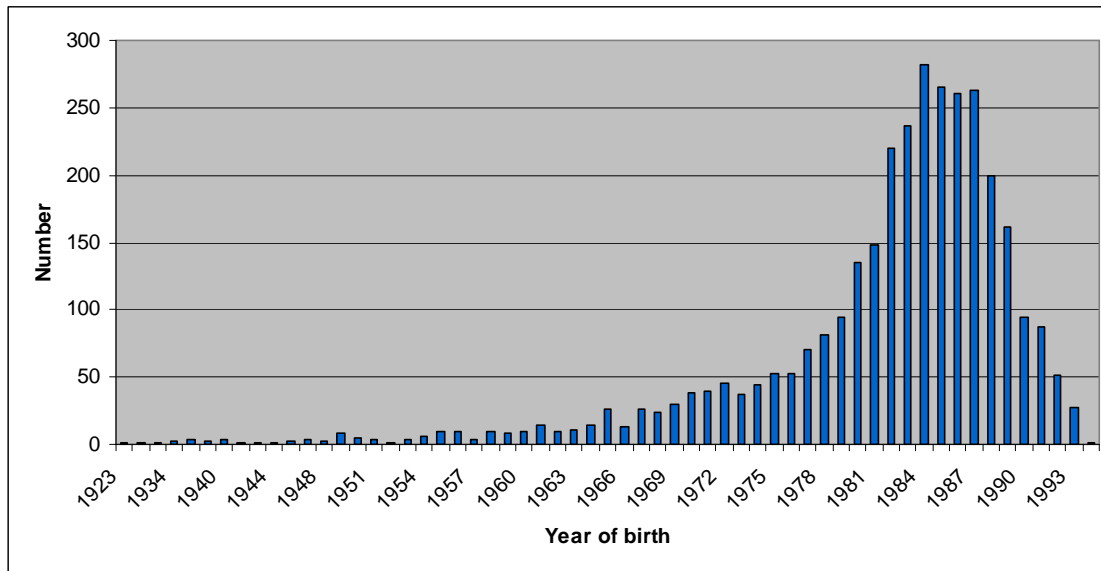
<sup>8</sup> Source: Department of Statistics, Studies and Documentation, General Secretariat for Immigration and Integration.

<sup>9</sup> The Application for Managing the Files of Foreign Nationals in France was launched in 1993 (Decree of 29 March 1993). This tool enables users in Prefectures and in the central offices of Ministry of the Interior, depending on their level of authorisation, to manage and consult individual files in shared IT databases. However, AGDREF is primarily used as a tool for producing residence documents, and its use as a real tool for managing and monitoring events occurring during a foreign resident's stay in France is but secondary. The tool was supplemented in 2001 by a derived database aiming to produce immigration statistics.

<sup>10</sup> Source: SGII / DSED



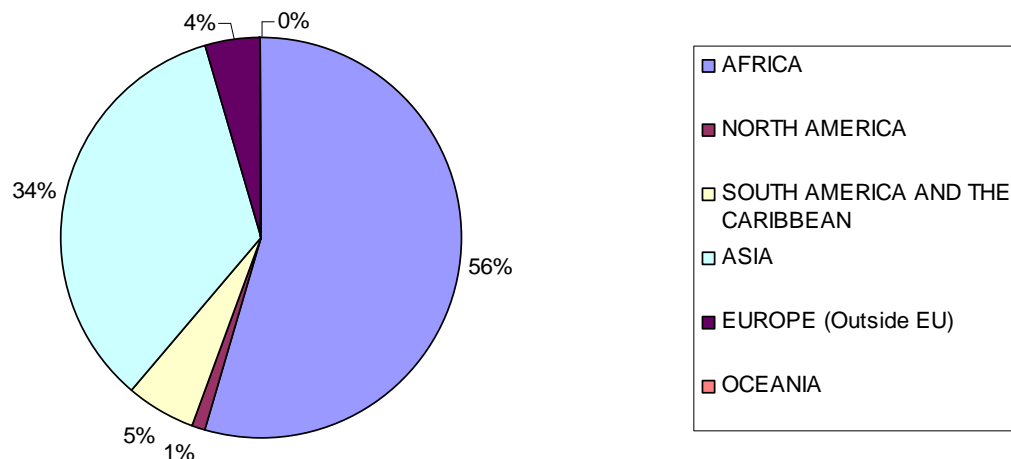
**Graph 2: Distribution of long-term residents coming from another Member State for 2011, by year of birth**



Source: SGII / DSED

For 2011, analysis by year of birth shows that the majority of long-stay residents are aged between 20 and 30 years old (born between 1980 and 1990), representing around 70% of this group.

**Graph 3: Distribution of long-term residents coming from another Member State for 2011, by continent of origin**



Source: SGII / DSED

For 2011, the continents which are most represented among long-term residents are Africa (1,777 nationals) and Asia (1,122 nationals). The former represent 54.6% of the total and the latter represent 34.4%.

Among the African nationals, the biggest groups of nationalities are Moroccans (30%), Tunisians (12%) and Senegalese (11%).

Among the Asian nationals, 45% hold Chinese nationality.

The other continents are less represented, with 5.5% of South American and Caribbean nationals (178 nationals), 4.4% from Europe outside the EU (143 nationals), 1.1% from North America (35 nationals) and only 0.1% from Oceania (less than five nationals).

➤ *Professional profile*

Nearly 45% of long-term resident third-country nationals coming from another Member State obtained their residence permit for economic reasons, essentially as employees.

**2) EU Blue Card holders**

Because this is a recent mechanism, it is not yet possible to obtain relevant statistical data on EU Blue Card holders in France.

**3) Researchers**

In the context of studies conducted by the Ministry for Higher Education and Research, it is possible to identify the number of third-country national researchers in France. However, the information only relates to a researcher's **nationality** without specifying the country of former residence. No statistical data exists therefore on third-country nationals in the context of intra-EU mobility.

**4) Students**

Statistics relating to students, as provided in the main EMN study conducted in September 2012,<sup>11</sup> indicates the number of third-country national students enrolled at high education establishments in France, without specifying whether or not they came from another Member State.

It is, however, possible to determine the number of **student visas** issued by French consulates abroad, depending on the Member State of former residence. In 2011, 1,926 student visas were issued by French consulates in other Member States. The French consulates which registered the most requests for student visas were those in Great Britain, Spain, Italy and Germany. The number of requests has constantly risen since 2008.

By means of comparison, 68,658 student visas were issued in 2011. According to the table below, the number of student visas issued by French consulates in Member States therefore represents a negligible amount, less than 3% of all student visas issued.

This may partly explain why there is currently no particular procedure aiming to simplify the admission of foreign students who are studying in another Member State and who want to continue their studies in France outside of exchange programmes.

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<sup>11</sup> The European Migration Network France National Contact Point, Immigration of Foreign Students in France, September 2012.  
<http://emn.intrasoft-intl.com/Downloads/download.do;jsessionid=8B6A9EF6634636738CCC09D86287251D?fileID=3512>

**Table 2: Number of student visas issued by French consulates in EU Member States<sup>1</sup>**

Member State	Year			
	2008	2009	2010	2011
AUSTRIA	25	40	70	45
BELGIUM	130	155	195	240
BULGARIA	20	15	15	40
CYPRUS	5	10	15	20
CZECH REPUBLIC	15	10	0	0
DENMARK	25	30	20	30
ESTONIA	*	0	0	0
FINLAND	15	20	30	30
GERMANY	270	270	280	285
GREAT BRITAIN	325	350	390	405
GREECE	20	25	25	25
HUNGARY	20	15	0	0
ITALY	175	265	320	300
LATVIA	*	*	*	10
LITHUANIA	*	0	0	0
MALTA	0	0	*	*
POLAND	20	30	25	35
PORTUGAL	15	25	10	20
ROMANIA	30	35	55	55
SLOVAKIA	*	*	0	0
SLOVENIA	0	*	0	0
SPAIN	225	225	240	320
SWEDEN	30	50	75	70
THE NETHERLANDS	50	10	0	0
<b>TOTAL</b>	<b>1,425</b>	<b>1,575</b>	<b>1,765</b>	<b>1,925</b>

Source: Immigration Directorate, Sub-Directorate for Visas, Ministry of the Interior.

\* Statistical confidentiality has been applied to this table for all figures below five.

<sup>1</sup> Data are not available for Ireland and Luxembourg.

**Table 3: Number of student visas issued from 2008 to 2011**

Year	2008	2009	2010	2011
<b>Number of student visas</b>	68,064	69,724	72,735	68,658

Source: SGII / DSED

In terms of the total number of student visas issued in 2011, intra-EU mobility does not appear to be significant in the case of students. Analysis of the mobility of posted workers will demonstrate whether this trend holds for other groups of third-country nationals provided for in the EU acquis.

### 5) *Posted workers*

Statistics relating to posted workers are based on the number of **Posting of Workers Declarations**. These must be completed by the employers then submitted to the Labour Inspectorate. Each year, the General Labour Directorate (DGT) of the Ministry for Labour, Employment, Professional Training and Social Dialogue publishes a **report on changes in the number of declarations of interventions in France by foreign service providers and the number of employees which they are posting**. In particular, this report enables the characteristics of these flows to be analysed, such as nationality, the length of the intervention, sectors of activity and workers' qualifications.

It should be stressed however that although these statistics are becoming more precise each year, they remain incomplete as some Departments provide no or partial information. Moreover, the study focuses on foreign companies, regardless of whether or not they are based in another EU Member State. Finally, all these figures include both nationals of EU Member States and third-country nationals.

According to this report, 45,000 Posting of Workers Declarations were made and 145,000 workers were posted in 2011.<sup>12</sup> With nearly 7,000 additional declarations in 2011, the number of declarations rose by 17% in comparison to 2010. Third-country national workers represent 8% of the total posted workers, with **12,100 workers**. This category includes a significant number of Russian, Belarusian and Ukrainian nationals. A second group consists of South American workers, often posted by Portuguese and Spanish companies.

Border zones receive the most declarations, making up 63% of the total.

The study specifies that the EU 15 accounts for 61% of declarations submitted by employers in 2011. However, the rise in this group (8%) is lower than that of new Member States (44%). Luxembourg, in particular through temporary employment agencies, is the country which makes the most number of declarations, representing a quarter of all declarations. Three countries (Luxembourg, Poland and Germany) made more than half of the declarations received in 2011.

The areas affected by these services are in construction and public works<sup>13</sup> (38% of declarations), temporary employment agencies<sup>14</sup> (30%) and industry (17%). 82% of posted workers are manual workers in construction and public works, temporary employment agencies and industry. Managers represent 2.6% of the total volume of declared posted workers. Analysis of posted workers by employment status shows that they represent a majority of manual workers (75% in 2011), a smaller number of clerical, technical and supervisory staff<sup>15</sup> (5% in 2011) and a very small number of managers (2.6% in 2011).

More specifically, the AGDREF software contains information relating to residence permits for "**employees of service providers based in the EU**", particularly issued to third-country nationals carrying out temporary services in France, for an employer based in another EU Member State. This represents a particularly small number of individuals, with only 24 third-country nationals receiving this permit in 2011. Around 88% of them are clerical staff.<sup>16</sup>

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<sup>12</sup> General Labour Directorate, Analysis of Posting of Workers Declarations submitted by service providers in France in 2011, September 2012.

<sup>13</sup> BTP, *Bâtiment et travaux publics*.

<sup>14</sup> ETT, *Entreprises de travail temporaire*.

<sup>15</sup> ETAM, *Employés, techniciens et agents de maîtrise*.

<sup>16</sup> Source: SGII / DSED

This difference between the number of third-country national posted workers declared in 2011 (12,000) and the number of “employees of service providers based in the EU”, permits issued in 2011 (24) may be explained by the fact that the study report on changes in the number of Posting of Workers Declarations in France covers all foreign service providers, whether the employer be based in an EU Member State or not. It should thus be stressed that posted workers affect few third-country nationals in the context of intra-EU mobility.

Based on an analysis of available data, it thus appears that intra-EU mobility affects relatively small numbers of third-country nationals provided for in the EU acquis.

## **b) Groups of third-country nationals who are not provided for by the EU acquis**

Several categories of third-country nationals, although not provided for by the EU acquis, may represent a significant share of the labour market. Analysis of the available statistical data allows better identification of the scale of this phenomenon.

### ***1) Cross-border workers***

Statistics on third-country nationals living in another Member State and working in France are not available.

On the other hand, it is possible to study the **situation of those who reside in France and work in another Member State**.

Statistics relating to third-country nationals residing in France and working in another Member State of the European Union are drawn from the population census conducted in France in 2009.<sup>17</sup> The population census, which provides statistics on the number of inhabitants and their characteristics including information on **place of work outside France**, which may be cross referenced with the nationality of the third-country national. It should be recalled that the census is conducted on a sample of individuals, on the basis of a questionnaire.

#### **➤ *Demographic profile***

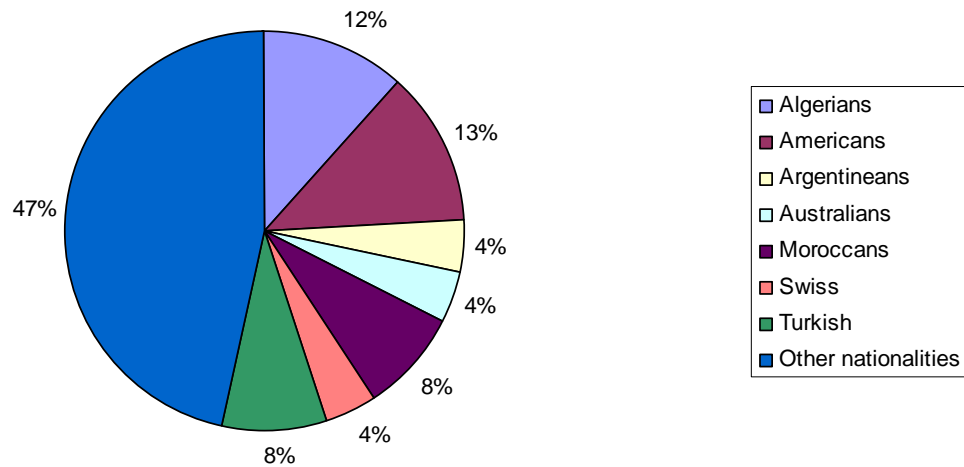
According to the population census conducted in 2009, 1,294 third-country nationals live in France and work in another Member State of the European Union. 32 % of them were women. The average age of this group was 39.5 years. The average age of men is 39.9 years old and for women 38.8.

The top nationalities are Americans (12.5%), Algerians (11.6%) and Moroccans (8.3%). 46.7% of this group consists of various nationalities, grouped together because of their small statistical significance. This group includes 62 different nationalities.

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<sup>17</sup> The most recent population census available was conducted in 2009.

**Graph 4: Distribution of third-country national cross-border workers, by nationality**



Source: SGII / DSED

➤ *Professional profile*

The biggest socio-professional categories among third-country nationals residing in France and working in another EU Member State are managers and higher intellectual professions (30.4%), manual labourers (27.9%) and clerical staff (16.2%). The manual labour category accounts for the biggest proportion of men (37.1%). For women, the category of clerical staff is the most represented (34.5%).

Cross-border workers mostly work in the service sector, accounting for 76% of the total.

➤ *Geographical distribution*

**Cross-border third-country nationals** reside mainly in Lorraine (27.9%), Île-de-France (19.2%), Alsace (11.4%) and in Nord-Pas-de-Calais (10.7%). With the exception of the Parisian region, they are concentrated in the **border regions** in the north and east of France.

Comparing these data with those of **all cross-border workers**, the majority of the latter group is concentrated in the three border regions in the north and east of France: 53.7% live in Lorraine, 17.5% in Alsace and 16.1% in Nord-Pas-de-Calais. By contrast, only 2.5% state that they live in Île-de-France.

Several factors may explain the relatively high proportion (19.2%) of cross-border third-country nationals living in Île-de-France. During the census, it is possible that individuals may have noted Île-de-France as their primary residence, while having a secondary residence in the Member State in which they work. Moreover, the declarative nature of the census means that there is a margin for error or imprecision.

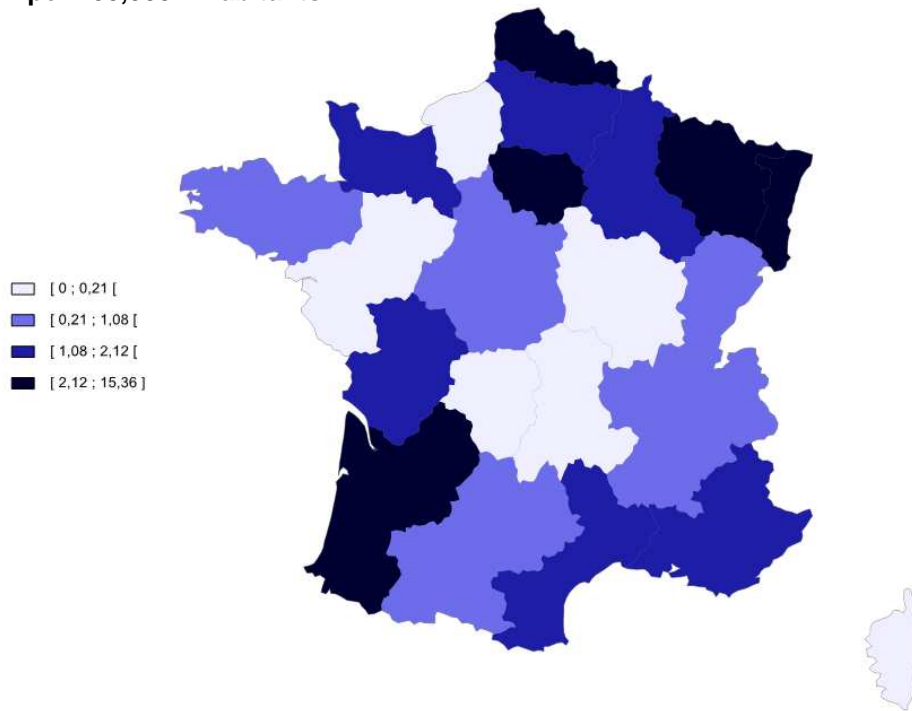
**Table 4: Distribution of cross-border workers by region (in %)**

Distribution by region	Cross-border third-country nationals	All cross-border workers
Île-de-France	19.2	2.5
Champagne-Ardenne	1.5	2.0
Picardy	1.7	0.4
Upper-Normandy	0.0	0.2
Centre	1.2	0.3
Lower-Normandy	1.2	0.3
Burgundy	0.0	0.2
Nord-Pas-de-Calais	10.7	16.1
Lorraine	27.9	53.7
Alsace	11.4	17.5
Franche-Comté	0.6	0.2
Pays de la Loire	0.3	0.3
Brittany	0.5	0.5
Poitou-Charentes	1.5	0.3
Aquitaine	7.8	2.3
Midi-Pyrénées	0.8	0.6
Limousin	0.1	0.1
Rhône-Alpes	3.2	0.7
Auvergne	0.0	0.1
Languedoc-Roussillon	3.3	0.8
Provence-Alpes Côte d'Azur	7.2	0.9
Corsica	0.0	0.0

Source: SGII / DSED

**Map 1: Geographical distribution of cross-border third-country nationals**

**Number of third-country nationals working in another EU Member State per 100,000 inhabitants**



Source: SGII / DSED

**2) Seasonal workers**

There are no statistical data on this group of mobile third-country nationals.

**3) Workers in regulated professions**

There are no statistical data on this group of mobile third-country nationals.

**4) Other migrants**

No data available.



### 2.3. Other sources of statistics

#### **a) Number of recognitions of degrees and certificates obtained in another Member State**

Requests received by the French Information Centre for the Academic and Professional Recognition of Qualifications, ENIC NARIC,<sup>18</sup> are **recorded according to the country in which the qualification was received**, not the individual's nationality. It is therefore not possible to know the number of degrees and certificates which have been received by third-country nationals in another Member State.

#### **b) Number of visa requests for third-country nationals residing in another EU Member State**

In 2011, 83,947 visas were issued to third-country nationals by French consulates in EU Member States, of which 4,773 were for professional reasons. 32% of the total number of visas for professional reasons were issued by French consulates within the EU.

**Table 5: Number of visas issued by French consulates in EU Member States**

Year	2008	2009	2010	2011
<b>Number of visas issued</b>	90,248	82,796	74,721	83,947
<b>Number of visas issued for professional reasons</b>	6,640	5,852	4,831	4,773

Source: Immigration Directorate, Sub-Directorate for visas, Ministry of the Interior

**Table 6: Total number of visas issued for professional reasons**

Year	2008	2009	2010	2011
<b>Total number of visas issued for professional reasons</b>	14,740	13,955	14,658	14,866

Source: SGII / DSED

#### **c) Number of social security registrations for third-country nationals who were resident in another EU Member State before their arrival in France**

There are no statistical data on social security registrations for third-country nationals coming from another Member State.

#### **d) Information on previous country of residence, contained in the latest population census**

In the context of the **census conducted in 2008**, 12,576 third-country nationals were living in another Member State five years previously.

<sup>18</sup> The European Network of Information Centres - National Academic Recognition Information Centres.

The **Longitudinal Study on the Integration of First-Time Arrivals (ELIPA)**<sup>19</sup> particularly looks at the **migratory trajectories** which those questioned have taken. 89% of those had always lived in their country of origin before coming to France. Of the 10% of people who had lived in another country, 70% had only lived in one other country in addition to France and their home country, and 30% had lived in several countries. 26.2% of them had lived in another EU Member State just before arriving in France.

**e) Information on the reasons why third-country nationals request French nationality**

A large majority of those questioned in the context of the ELIPA study (82%) wished to obtain **French nationality** at a later date, primarily because they consider that *'their life is in France'*. The reasons expressed by those who did not want to or hesitated to request French nationality were that they didn't see a use for it, or they were attached to their own nationality, or that their country of origin does not allow citizens to hold double nationality.

**f) Information on migratory projects**

The ELIPA study consisted of three stages of questioning: individuals were questioned soon after signature of the CAI at the beginning of 2010, then re-questioned in 2011 and 2013. The first stage of the study, conducted in 2010, focused on a sample of 6,107 people. The second stage, conducted in 2011, re-questioned 4,756 people. The third stage is planned for spring 2013. This study thus enables analysis of third-country nationals' migratory projects over the long-term and to observe the changes that have taken place between the two stages.

During the first stage, in response to the question, *'What are your plans?'* 6% said that they wanted to *'stay for a few years in France then leave (including returning to the country of origin)'*, 70% wished to *'remain permanently in France'*, 16% said they had *'no clear idea'*, and 6% wanted to *'come and go between France and other countries'*. Around 2% did not answer.

Of those interviewed during the second stage, 7% said that they wanted to *'stay for a few years in France then leave (including returning to the country of origin)'*, 76% wished to *'remain permanently in France'*, 10% said they had *'no clear idea'*, and 5% wanted to *'come and go between France and other countries'*. Around 2% did not answer.

Between the first and second stages, therefore, more people wished to remain permanently in France.

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<sup>19</sup> The main objective of ELIPA is to find out about integration paths in the three years following a first admission for permanent residence of at least one year being issued and evaluation of the reception arrangements. In the context of this study, therefore, individuals who had signed the Integration and Reception contract (CAI) established by the French Office for Immigration and Integration were questioned.

## 2.4. Statistics on the flows of EU nationals in France

There are no statistics on the flow of EU nationals in France.

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Above all, this section has made us aware that there is little precise statistical information in France on intra-EU mobility of third-country nationals. Although it is not relevant to conduct comparative analyses based on the available data on different groups of third-country nationals, it is nonetheless possible to draw out certain trends. Thus, the number of student visas issued between 2008 and 2011 by French consulates in Member States represents a very small part of the total of student visas issued over this period. It appears therefore that the majority of students complete their formalities in a third country, without having previously resided in an EU Member State. Posting of workers to the EU also constitutes a very small part of this whole group.

Moreover, the ELIPA study showed that most third-country nationals questioned had always lived in their country of origin before coming to France. The following section, on analysis of restrictions to intra-EU mobility of third-country nationals, will enable us to identify the factors encouraging or discouraging mobility of third-country nationals from one Member State to another, and to better understand this phenomenon.

## SECTION 3: IDENTIFIED RESTRICTIONS TO INTRA-EU MOBILITY OF THIRD-COUNTRY NATIONALS

While some factors, such as cultural and historical connections, knowledge of the language, or the presence of family members, may explain the reasons why third-country nationals choose to live in France, others may, on the contrary, appear to be an obstacle. Several factors may have a negative influence on the decisions of third-country nationals to live in France, even when they meet all the conditions necessary for obtaining a visa or residence permit. Some restrictive measures in national legislation thus play an important role in the choice of destination. These are often introduced for reasons connected to labour market policy.

### 3.1. Restrictions relating to the labour market: preference for EU nationals

According to the principle of '**opposability**' of the employment situation, a work permit may be issued to a third-country national if no French national or no foreigner already holding the right to work in France can fill the post. In France, preference is thus given to **French nationals and nationals of other EU Member States**.

According to Article R.5221-20 of the Labour Code, when granting or refusing a work permit, the Prefect must take into account the following considerations:

- The **labour market** for the occupation and in the geographic area for which the request is being made, bearing in mind the particularities required for the job in question, and steps which the employer has already taken with placement agencies providing public employment services to recruit from those already in the labour market;
- the **match** between the foreigner's qualification, experience, degrees or diplomas and the characteristics of the job which he or she has applied for.

There are, however, exemptions for certain categories of salaried workers. Indeed, the employment situation is not 'opposable' for **workers posted in the context of intra-corporate mobility** holding a temporary 'employee on assignment' residence permit as well as for **highly qualified workers holding an 'EU Blue Card' temporary residence permit**. The labour market situation is also not 'opposable' for third-country nationals already residing in an EU Member State and providing temporary services in France for an employer based in another EU Member State.

During the transition period, and with a view to full access to freedom of movement across the whole EU, some flexibility is planned for nationals of new Member States. Article L.121-2 of the CESEDA states that **citizens of the Union who are subject to a transitional period set out in the accession Treaties** and who « *wish to exercise a salaried activity in a shortage occupation and which features on a national list established by the Government* » may not be excluded by the labour market on the basis of Article 5221-2 of the Labour Code. The Decree of 1 October 2010, amending the Annex to the Decree of 18 January 2008, relating to the issue of work permits to EU Member State nationals subject to temporary provisions without opposability of the labour market, lists 291 occupations which are open to such EU nationals. Although their access to the labour market is limited, **Romanian and Bulgarian nationals** benefit from EU national preference in comparison to third-country nationals.

In addition, administrative procedures have been facilitated for certain **occupations, because of labour shortage**. These are set out in a list of occupations. By means of example, the Decree of 11 August 2011 relating to work permits being issued, without opposability of the employment situation, to nationals from outside the European Union, other States in the European Economic Area or the Swiss Confederation, specifies that « *the labour market situation or where steps have not been taken to recruit from those already in the employment situation is not opposable to a request for work permit presented by a third-country national [...] wishing to practise a profession affected by labour shortage* ».

However, this Decree, which established a list of 14 occupations open to all third-country nationals, was annulled by a decision of the Council of State on 26 December 2012.<sup>20</sup> This resulted in the preceding Decree of 18 January 2008,<sup>21</sup> which established **regional lists of occupational shortages** applicable to third-country nationals (30 professions including six on a national level) coming back into force.

Specific lists of occupations have also been established for nationals of certain countries, in the context of **bilateral agreements**. France has signed several agreements on the management of migration flows covering different areas, in particular provisions relating to immigration for professional reasons, which establishes the list of occupations for which the employment market is not 'opposable'. They may relate to qualified occupations, in IT for example, but also to less qualified occupations such as in catering or security, for example. The following agreements have been signed:

- France-Senegal agreement of 23 September 2006
- France-Gabon agreement of 5 July 2007
- France-Congo agreement of 25 October 2007
- France-Benin agreement of 28 November 2007
- France-Tunisia agreement of 28 April 2008
- France-Mauritius agreement of 23 September 2008
- France-Cap Verde agreement of 24 November 2008
- France-Burkina Faso agreement of 10 January 2009
- France-Cameroon agreement of 21 May 2009 (yet to be ratified).

Although preference for EU nationals exists in the labour market, there are several exemptions which are applicable depending on whether the labour market situation is 'opposable' or not, the nationality of the candidate, and the economic climate. In relation to the labour market, the minimum wage may also appear to be a significant factor in choosing a candidate.

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<sup>20</sup> Decision no. 353288 of 26 December 2012 by the Conseil d'Etat, deciding as a court  
[http://www.legifrance.gouv.fr/jopdf/common/jo\\_pdf.jsp?numJO=0&dateJO=20121229&numTexte=93&pageDebut=20839&pageFin=20839](http://www.legifrance.gouv.fr/jopdf/common/jo_pdf.jsp?numJO=0&dateJO=20121229&numTexte=93&pageDebut=20839&pageFin=20839)

<sup>21</sup> Decree of 18 January relating to the issue of work permits, without opposition to the employment situation, to nationals from outside the EU, the European Economic Area and the Swiss Confederation.  
<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000017937372&dateTexte=20080306&fastPos=2&fastReqId=782357839&oldAction=rechTexte>

### 3.2. Minimum wage

In France the statutory minimum wage (SMIC) is set at €9.40 gross per hour and €1,430.22 gross per month.<sup>22</sup> Depending on the occupation, applicable **collective agreements** generally set out a standard salary. Collective agreements indeed supplement the provisions of the Labour Code for each occupational branch and each profession. It may therefore be the collective agreement, rather than the minimum wage, which plays a decisive role in choosing a destination country.

In addition, the situation differs depending on the occupation which the third-country national exercises. In France, access to certain occupations may appear to be more difficult, because of the criteria which are required.

### 3.3. Restrictions relating to self-employment

In order to be self-employed in France, a **minimum of resources** is required, as for the Skills and Talents temporary residence card. Various criteria need to be met in order to access these professions, which may therefore have an influence on the third-country national's choice.

By means of example, a third-country national exercising a **commercial, industrial or trade profession** may receive a temporary residence permit authorising the exercise of a professional activity on the condition that he or she can « *justify a viable economic activity which is compatible with public security, cleanliness and order and respecting the obligations imposed upon nationals for the exercise of the profession in question* » (Article L.313-10 par. 2 of CESEDA). Applicants must present proof of the economic feasibility of their project or the effectiveness of the activity in which they wish to participate, as well as proof that the activity can earn them resources which are at least equal to the SMIC.

Third-country nationals exercising a **self-employed profession which is not subject to authorisation** may receive a temporary residence permit specifying the professional activity which they intend to exercise. Applicants must prove they can live on their own resources. They must thus present evidence that they have resources which are at least equivalent to the SMIC, corresponding to a full-time job (Articles L.313-10 par. 3 and R. 313-17).

Another condition for access to the labour market is the recognition of qualifications. Various procedures must be followed depending on the individual's situation.

### 3.4. National rules and procedures relating to recognition of qualifications

Exercising the right to mobility is often connected to the professional or academic recognition of a qualification obtained in the country of origin or in another EU Member State.

In terms of professional recognition, the situation differs depending on whether the profession is regulated in France or not. To exercise a **regulated profession** in France a person has to hold a **degree or professional qualification** as well as a **licence**. In order to obtain this licence, applicants must contact the competent professional authority.

In the event of discrepancies between the candidate's training and that required to exercise in the receiving country, applicants may be subject to additional requirements.

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<sup>22</sup> Decree No. 2012-1429 of 19 December 2012 relating to the statutory minimum wage.

When the **occupation is not regulated**, the recognition of qualifications and professional levels is incumbent on the **employer**. In order to facilitate the process, applicants may obtain a comparability certificate for a foreign degree or a certificate of recognition of studies or training conducted abroad. The applicant may use this document, which evaluates the degree in comparison with the French system, and present it to an employer, a public body conducting a recruitment exercise, or a training establishment. Applications may then be made to the ENIC-NARIC Centre.<sup>23</sup> The French Information Centre for the Academic and Professional Recognition of Qualifications provides information on the professional recognition of qualifications and issues certificates. It costs 70 euros to obtain a certificate for a qualification obtained abroad.

### 3.5. Access to social security and social services

While conditions for access to employment are a determining factor in choosing a country of destination, in terms of the measures applicable to third-country nationals, social benefits may also have an impact. However, the aim here is not to address the issue from a restrictive angle. Indeed, access by third-country nationals to social security and social services in France presents a number of **advantages**.

Access to social security and social services may be a deciding factor for third-country nationals and their families living in another EU Member State and wishing to move to France.

In France, it is possible to receive **family allowance and housing benefit** regardless of nationality, on the condition that the applicant and members of his or her family are legally resident in France and are in possession of a valid residence permit.

According to Article L.512-1 of the Social Security Code, any French or foreign person resident in France with one or more dependent children residing in France qualifies for family benefit. This does not apply to workers who are temporarily posted to France to conduct a professional activity and who are exempt from the French social security regime.

In addition, any French or foreign person who has been residing legally in France for more than three months and who is not already covered by a social security scheme may request to be included in the basic **universal health insurance** (CMU) (Article L.380-1 of the Social Security Code). The CMU was created by Law No. 99-641 of 27 July 1999 for residents of the French mainland and overseas departments.

Third-country nationals in an irregular situation may benefit from **state medical aid** (AME), on the condition that they have resided in France for more than three months. The AME covers the total cost of medical care and hospitalisation.

Far from being restrictive, the provisions linked to social security and the social services may thus have a positive influence on a third-country national's decision to move to France. This element often goes hand in hand with the rights accorded to the family members of a third-country national.

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<sup>23</sup> The European Network of Information Centres - National Academic Recognition Information Centres.



### 3.6. Rights granted to family members

The rights to which family members of a third-country national are entitled may influence their decision to move to another EU Member State. In France, benefits granted to family members are not considered as a restrictive measure and may thus **favourably influence the decision**. The situation differs depending on the residence permit issued to the third-country national.

In all cases, family members involved in family reunification include the legal spouse, who must be aged over 18 at the time the request is submitted, and minor children under the age of 18 when the request is submitted.

The temporary residence cards: « EU Blue Card », « Researcher », « employee on assignment » and « Skills and Talents » offer the advantage of being accompanied by a « **private and family life** » card for family members accompanying the third-country national. This card automatically gives rise to the right to conduct any professional activity and thus exempts the holder from having to receive a work permit in France.

Third-country nationals who hold the status of a long-term resident in another Member State and who have been admitted to stay in France as such, may be **accompanied or joined by their spouse and minor children (under the age of 18)** without using the family reunification procedure, when the family members have regularly resided with the applicant in the Member State which awarded them the status of long-term resident. However, during the first year of stay in France, residence permits issued to family members of a third-country national do not include permission to work.



## SECTION 4: CONCLUSIONS

The objective of this study is to **evaluate** and better identify the main issues and challenges to intra-EU mobility for third-country nationals.

The first observation which emerges from this study is that this theme has been the subject of little research or statistical analysis in France. Studies conducted focus mainly upon the **nationality of third-country nationals in France**, without necessarily looking at the Member State of former residence.

In terms of the legal aspect, the study showed that **only a small part of all categories of third-country nationals benefit from the right to mobility**. These third-country nationals provided for by the EU acquis must, however, satisfy **more demanding criteria** in comparison with the formalities which EU citizens must accomplish should they wish to establish residency in France.

The study shows that the **right to mobility is not guaranteed** for groups of third-country nationals provided for by national legislation. Indeed, in most cases, they are often subject to the same obligations as third-country nationals arriving for the first time in France from any third-country. It should be noted that there is currently no particular procedure aiming to simplify the **admission of third-country national students** who are studying in another Member State and who want to continue their studies in France outside of exchange programmes.

Because of a **lack of available data**, it is difficult to precisely assess the extent of the phenomenon in France. However, samples from which data has been analysed showed certain trends and have enabled observation of **profiles of categories of migrant workers**. Among mobile third-country nationals who had lived in another EU Member State prior to moving to France, most socio-professional categories were represented, in particular manual workers, employees and executives, and higher intellectual professions. Most often these are young, economically active people. The significant proportion of north African nationals among the most represented nationalities is explained by cultural, historical and linguistic connections to France.

While the study also aimed to confirm or reject certain theories on intra-EU mobility, the lack of available data on flows of EU citizens to France meant that a comparative analysis between the mobility of EU citizens and the mobility of third-country nationals could not be conducted.

The study highlighted that intra-EU mobility appears to be relatively low for certain groups, such as students or posted workers. Some studies, such as the ELIPA survey showed that most third-country nationals questioned had always lived in their country of origin before coming to France. Although the relatively small scale of intra-EU mobility in France may be partly explained by the fact that the right to mobility only applies to a small number of third-country nationals, other factors may also be taken into consideration. Cultural and historical connections, language and the presence of part of the family, play a decisive role in the choice of migratory route.

Finally, this study aimed to better understand the **difficulties and obstacles** with which mobile third-country nationals are faced, with a view to reflecting upon measures aiming to facilitate the mobility of migrant workers from one Member State to another. Several factors may influence third-country nationals' decision to move to France. While restrictive conditions on access to employment constitute a determining criteria in the choice of country

of destination, social benefits may, inversely, favourably influence the decision to move to France. Access to social security and social services, as well as the rights granted to members of third-country nationals' families may also play a significant role.

Two draft Directives are currently being discussed at the European Council and the European Parliament, which will have implications for two categories of third-country nationals: **posted workers** and **seasonal workers**.

Analysis of national reports will enable an overview of the various EU Member States to be conducted, and will also lead to reflection upon measures aiming to facilitate intra-EU mobility of third-country nationals and to respond effectively to labour needs in the sectors in question.

## ANNEXES

### ANNEX 1. TABLES

#### 1. Statistics on the intra-EU mobility of third-country national workers in France

**Table 1: Third-country nationals entering France from another Member State, by age group (%)**

Age group	Males	Females	Total
5-9 years	5	5,8	5,4
10-14 years	4,5	4,6	4,6
15-19 years	4	4,2	4,1
20-24 years	5,8	9,4	7,5
25-29 years	15,1	15,7	15,4
30-34 years	22,8	20,2	21,5
35-39 years	20	14	17,1
40-44 years	9,3	10,4	9,8
45-49 years	5,5	5,5	5,5
50-54 years	3,2	3,2	3,2
55-59 years	1,9	2,8	2,3
60-64 years	1,1	1,9	1,5
65-69 years	0,6	1,4	1
70-74 years	0,7	0,5	0,6
75 years or older	0,5	0,4	0,5

Source : Population census 2008

**Table 2: Third-country nationals entering France from another Member State, by nationality (%)**

Nationality	Percentage
Albanian	0,9
Algerian	6,2
American (U.S.A.)	7,5
Angolan	0,8
Argentinian	1,3
Armenian	0,5
Australian	1,4
Bosnian	1,1
Brazilian	2,7
Burkinabe	0,3
Cameroonian	2,6
Canadian	2,5
Cap-Verdean	2,2
Chilean	0,7
Chinese	1,2
Colombian	1,3
Congolese	1,4
Croatian	0,3
Cuban	0,3
Ecuadorian	0,5
Gabonese	0,2
Georgian	0,6
Guinean	0,5
Indian	0,7
Iranian	0,4
Israeli	0,3
Ivorian	2,0
Japanese	2,9

Nationality	Percentage
Malagasy	0,5
Malian	1,2
Mauritanian	0,3
Mauritian	0,5
Mexican	0,7
Moroccan	18,6
New Zealand	1,3
Norwegian	0,8
Pakistani	0,9
Peruvian	0,6
Philippine	0,3
Russian	3,3
Rwandan	0,4
Senegalese	1,5
Serbian	3,0
South African	0,4
South Korean	0,8
Sri-Lankan	0,2
Swiss	4,0
Togolese	0,8
Tunisian	2,9
Turkish	3,0
Ukrainian	1,9
Venezuelan	0,4
Vietnamese	0,4
Zairian	0,9
Other nationalities	7,2

Source: Population census 2008

**Table 3: Third-country nationals aged 15 or over, by job category (%)**

Job category	Male	Female	Total
Farmers	0,3	0,1	0,2
Artisans, shopkeepers, entrepreneurs	5,8	3,6	5,0
Managers, intellectual professionals	20,1	20,9	20,4
Self-employed (other occupations)	12,0	20,9	15,3
Office workers	11,9	38,4	21,8
Blue-collar workers	45,4	7,2	31,2
Not working and have never worked	4,5	8,9	6,1

Source : Population census 2008

**Table 4: Third-country nationals aged 15 or over entering France from another Member State, by diploma (%)**

Diploma	Male	Female	Total
No schooling	3,7	3,3	3,5
Primary or middle school educated, no diploma	15,7	11,8	13,9
High-school educated, no diploma	9,0	5,6	7,4
Primary school diploma	1,5	1,1	1,3
Primary or middle school diploma	4,3	5,2	4,7
Artisan's diploma	5,0	2,6	3,9
Vocational studies certificate	3,4	2,7	3,1
High-school education or advanced technician's certificate	14,4	14,6	14,5
Technical or vocational high-school diploma or certificate or paralegal studies	4,6	4,2	4,4
First-level university diploma, advanced technician's certificate, paramedical, nursing or social work qualification	9,9	15,3	12,5
Master or doctorate (including medicine, pharmacy and dentistry), engineering or <i>grande école</i> diploma, etc.	28,6	33,5	30,9

Source : Population census 2008

## 2. Statistics on the different categories of mobile third-country nationals in France

### ➤ *Long-term residents of another Member State coming to France*

**Table 5: Breakdown of long-term residents by continent of origin**

Continent	Number
AFRICA	1 777
NORTH AMERICA	35
LATIN AMERICA & THE CARIBBEAN	178
ASIA	1 122
non-EU EUROPEAN COUNTRIES	143
OCEANIA	2
<b>Total</b>	<b>3 257</b>

Source : SGII/DSED

### ➤ *Cross-border workers*

**Table 6: Third-country national cross-border workers, by age group (%)**

Age group	Male	Female	Total
20-24 years	4,1	1,3	3,2
25-29 years	8,6	25,8	14
30-34 years	21,4	16,9	20
35-39 years	19,9	16	18,7
40-44 years	17,2	12	15,5
45-49 years	10	8,2	9,4
50-54 years	7,7	8,3	7,9
55-59 years	8,5	6,2	7,8
60 years or older	2,6	5,2	3,5

Source: SGII/DSED

**Table 7: Third-country national cross-border workers, by nationality (%)**

Nationality	Male	Female	Total
Algerian	15	4,2	11,6
American (U.S.A.)	12,6	12,5	12,5
Argentinian	3,4	6,2	4,3
Australian	4	4,4	4,1
Moroccan	10,6	3,6	8,4
Swiss	4,2	3,9	4,1
Turkish	9,6	5,3	8,3
Other nationalities	40,6	59,9	46,7

Source: SGII/DSED

## ANNEX 2 - BIBLIOGRAPHY

### 1. Reports and studies

- Direction générale du Travail, *Analyse des déclarations de détachement des entreprises prestataires de service en France en 2011*, Septembre 2012
- Jourdan Virginie, *Les nouveaux migrants sont satisfaits de leurs premières années en France*, Infos migrations n°38, Mars 2012  
<http://www.interieur.gouv.fr/Le-secretariat-general-a-l-immigration-et-a-l-integration-SGII/Statistiques-et-documentation/Publications/Numeros-parus-en-2012/Les-nouveaux-migrants-sont-satisfaits-de-leurs-premieres-annees-en-France>

### 2. Legislation

#### a) French legislation

- **Codes**

- Code de l'entrée et du séjour des étrangers et du droit d'asile (CESEDA)  
<http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070158&dateTexte=20120810>
- Code de la sécurité sociale  
<http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006073189>
- Code du travail  
<http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006072050&dateTexte=20120810>

- **Decrees**

- Décret n° 2012-1429 du 19 décembre 2012 portant relèvement du salaire minimum de croissance  
<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026805556&dateTexte=&categorieLien=id>

- **Orders**

- Arrêté du 1<sup>er</sup> octobre 2012 modifiant l'annexe de l'arrêté du 18 janvier 2008 relatif à la délivrance, sans opposition de la situation de l'emploi, des autorisations de travail aux ressortissants des États de l'Union européenne soumis à des dispositions transitoires  
[http://www.immigration-professionnelle.gouv.fr/sites/default/files/fckupload/Arrete\\_du\\_01-10-2012.pdf](http://www.immigration-professionnelle.gouv.fr/sites/default/files/fckupload/Arrete_du_01-10-2012.pdf)
- Decree of 18 January relating to the issue of work permits, without opposition to the employment situation, to nationals from outside the EU, the European Economic Area and the Swiss Confederation.

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000017937372&dateTexte=20080306&fastPos=2&fastReqId=782357839&oldAction=rechTexte>

## **b) European Directives**

- Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:289:0015:0022:EN:PDF>

- Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:375:0012:0018:EN:PDF>

- Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:229:0035:0048:en:pdf>

- Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:016:0044:0053:EN:PDF>

- Council Directive 2000/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:155:0017:0029:en:PDF>

- Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1997:018:0001:0006:EN:PDF>