



## EMN FOCUSSED STUDY 2012

### Intra-EU mobility of third-country nationals

#### National Contribution from Latvia

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

The **purpose** of the study is to act as a scoping exercise to better understand the key issues and challenges that are apparent in relation to the intra-EU mobility of third-country nationals in the different Member States.

#### Top-line 'Factsheet'

Numbers of mobile third-country nationals who are moving to Latvia from other EU Member States are low and is not sufficient source of information to indicate any trends, thus for national policymakers this issue is not relevant. The manner of national economy (e.g., no seasonal work), overall country development, low availability of social security and amounts of related benefits etc. are the purposes, why mentioned numbers are so small.

The rules and procedures which apply to mobile third-country nationals mostly are the same as for third-country nationals who are moving to Latvia from third-countries. The main difference is related to the place where documents can be submitted in order to request a residence permit. The entrance, stay and return of third-country nationals in Latvia are regulated by the Immigration Law (in force since 1 May, 2003) and the respective Cabinet Regulations.

In Latvia there are no other groups of third-country nationals who enjoy mobility rights than indicated in the study.

## Section 1

### The National Legislative Framework: Visas and Residence Permits

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

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

1) *What national rules and procedures apply to third-country nationals who are long-term residents in another Member State in respect of their access to a visa and/or residence permit in your country?*

Long-term residents are able to move to Latvia without visa, except those from Bulgaria, Romania and Cyprus. In particular cases visa is still necessary for entry to Latvia then standard procedure<sup>1</sup> is applicable. Foreigners' stay in Latvia can be prolonged by issuance of national long-term visa, also during a standard procedure.

For a residence permit – a standard procedure is applicable with an exemption that necessary documents for a residence permit may be submitted to the Office of Citizenship and Migration Affairs<sup>2</sup>. If the foreigner has applied for a residence permit after one year stay he/she and his/her family members have a free access to the labour market.

2) *Please explain how these national rules and procedures differ from the national rules and procedures that apply to EU citizens.*

When applying for a residence permit third-country national have to submit documents to prove that he/she has sufficient financial means, an intended place of residence, that he/she does not suffer from tuberculosis, has no criminal record and complies with all other requirements. The EU citizen has just declare his/her address and a fact that he/she has sufficient financial means and do not suffer from illnesses. The EU citizen also is exempt from state fee and he/she has a free access to the labour market directly after the entry. Both categories are entitled to the family reunification, but in case of EU citizen, scope of family members is much broader than in case of third-country national.

##### **1.2. EU Blue Card holders**

1) *What national rules and procedures apply to third-country nationals who are EU Blue Card holders in another Member State in respect of their access to a visa and/or residence permit in your country?*

EU Blue Card holders are able to move to Latvia without visa, except those from Bulgaria, Romania and Cyprus. In particular cases visa is still necessary for entry to Latvia then standard procedure is applicable. Foreigners' stay in Latvia can be prolonged by issuance of national long-term visa, also during a standard procedure.

For a residence permit – a standard procedure is applicable with an exemption that necessary documents for a residence permit may be submitted to the Office of

<sup>1</sup> Standard procedure in the context of that study means standard document package and standard procedures what should submit and fulfil a third-country national who are moving to Latvia from third country.

<sup>2</sup> The detailed information on structure and overall organisation of migration and asylum policy in Latvia is included in report by the Latvian Contact Point of the EMN, available at web page [www.emn.lv](http://www.emn.lv), section *Studies and Reports*.

Citizenship and Migration Affairs.

2) *Please explain how these national rules and procedures differ from the national rules and procedures that apply to EU citizens.*

The holder of EU Blue Card is entitled to work only with particular employer, but EU citizen – with any employer in the Republic of Latvia.

### **1.3. Researchers**

1) *What national rules and procedures apply to third-country nationals who are resident in another EU Member State who wish to undertake work as a Researcher in your Member State?*

Researchers are able to move to Latvia without visa, except those from Bulgaria, Romania, Cyprus, Ireland and UK. In particular cases visa is still necessary for entry to Latvia then standard procedure is applicable. Foreigners' stay in Latvia can be prolonged by issuance of national long-term visa, also during a standard procedure.

If third-country national has concluded the agreement with scientific institution included in the register of scientific institutions (Art.23 (1), Subpar. 9 of the Immigration Law), he/she receives a residence permit without separate work permit. If the agreement has been concluded with other scientific institutions that have not been registered in the register of scientific institutions, the officials of the Office of Citizenship and Migration Affairs evaluate the agreement in order to detect which kind it is – as a work or scientific agreement.

2) *Please explain how these national rules and procedures differ from the national rules and procedures that apply to EU citizens.*

Third-country national have to prove that he/she has all necessary documents and fulfils with all requirements.

Third-country national is entitled to carry out the research only on the basis of concluded scientific cooperation agreement, but EU citizen may be involved in various projects developed on the same time.

### **1.4. Students**

1) *What national rules and procedures apply to third-country nationals who are resident in another EU Member State who wish to undertake studies in your Member State?*

Students are able to move to Latvia without visa, except those from Bulgaria, Romania, Cyprus, Ireland and UK. In particular cases visa is still necessary for entry to Latvia, than standard procedure is applicable. Foreigners' stay in Latvia can be prolonged by issuance of national long-term visa, also during a standard procedure.

For a residence permit – a standard procedure is applicable. The only difference is that necessary documents for a residence permit may be submitted to the Office of Citizenship and Migration Affairs.

2) *Please explain how these national rules and procedures differ from the national rules and procedures that apply to EU citizens.*

For both – EU citizens and third-country nationals, health insurance policies are necessary. Students – third-country citizens are allowed to work 20 hours per week, while EU citizens have no restrictions.

### **1.5. Posted workers**

1) *What national rules and procedures apply to third-country nationals who are resident in another EU Member State who are posted by a service provider for the purposes of cross-border provision of services in your Member State?*

Posted workers are able to move to Latvia without visa, except those from Bulgaria, Romania, Cyprus, Ireland and UK. In particular cases visa is still necessary for entry to Latvia then standard procedure is applicable. Foreigners' stay in Latvia can be prolonged by issuance of national long-term visa, also during a standard procedure.

For a residence permit – standard procedure is applicable. According to the provisions of Immigration Law (Art.9 (2), Subpar.9) for posted workers a work permit shall not be necessary (also for a visa).

2) *Please explain how these national rules and procedures differ from the national rules and procedures that apply to EU citizens.*

According to the provisions of Labour Law (Art.14) an employer who posts an EU citizen to perform work in Latvia has a duty, prior to posting the employee, to inform in writing the State Labour Inspectorate regarding such posted employee.

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

#### **1.6. Cross-border workers**

1) *Do specific national rules and procedures governing access to a visa and/or a residence permit apply to third-country nationals who are resident in another Member State but are employed as cross-border workers in your Member State?*

There are no specific rules or procedures for cross-border workers. The standard procedure is applicable – a cross-border worker should apply for a residence permit (visa) and a work permit. The fact that the particular cross-border worker has a residence permit in another EU country does not constitute any advantages except the possibility to submit documents for a residence permit and work permit in Latvia.

2) *If specific national rules and procedures apply to the third-country nationals described in 1.6 (1) above, how do these differ from the national rules and procedures that apply to EU citizens in a similar situation?*

Due to the fact that EU citizens – cross-border workers, are regularly returning to their home country, there is no need even to be registered at the Office of Citizenship and Migration Affairs.

#### **1.7. Seasonal workers**

1) *Do specific national rules and procedures apply to third-country nationals who are resident in another Member State and who exercise an economic activity as seasonal workers in your Member State in respect of their access to a visa and/or residence permit?*

The standard procedure is applicable for both – visa (for whom it is necessary) and residence permit. Latvian legislation does not provide any schemes for seasonal workers yet. The fact that the particular seasonal worker has a residence permit in another EU country does not constitute any advantages except the possibility to submit documents for a residence permit and work permit in Latvia.

2) *If specific national rules and procedures apply to the third-country nationals described in 1.7 (1) above, how do these differ from the national rules and procedures that apply to EU citizens in a similar situation?*

If the EU citizen continuously stays in Latvia for period more than 90 days, he/she obligatory has to apply for a registration certificate. The EU citizen are not obliged to prove necessary financial means and place of residence, they do not have to submit health insurance policy, certificate from medical institution on tuberculosis and criminal record. They do not have to pay a state duty for examination of documents either.

### **1.8. Workers in regulated professions**

1) *Do specific national rules and procedures apply to third-country nationals who are resident in another Member State and who apply to work in a regulated profession in your Member State in respect of their access to a visa and/or residence permit?*

The standard procedure is applicable for both – visa and residence permit. Additionally, the recognition of diploma or qualification is necessary.

2) *If specific national rules and procedures apply to the third-country nationals described in 1.8 (1) above, how do these differ from the national rules and procedures that apply to EU citizens?*

EU citizens also have to manage the recognition of diploma or qualification.

### **1.9. Any other category of migrant worker not mentioned above**

No.

### **1.10. Common rules and procedures for all mobile third-country nationals**

1) *Does the national legislative framework in your Member State contain rules and procedures that are relevant to all mobile third-country nationals (rather than rules that differentiate between different groups) in respect of their access to a visa and residence permit?*

For all mobile third-country nationals the only exemption from standard procedures is that all documents necessary for applying to the residence permit shall be submitted to the Office of Citizenship and Migration Affairs.

Third-country nationals for whom the first Member State is also the Schengen Agreement Member State shall entry into Latvia without visa.

2) *If yes, please describe the rules and procedures and explain how they differ from the national rules and procedures that apply to EU citizens.*

The difference from the rules and procedures applied to third-country nationals is that EU citizens in any case submit necessary documents to apply for registration certificate etc. to the Office of Citizenship and Migration Affairs and they can entry into Latvia without visa.

## Section 2

### Scale and scope of the phenomenon

#### **2.1. Are statistics on overall intra-EU (work-related) mobility of third-country nationals available in your (Member) State**

As the mobility of third-country nationals is not the topical issue in Latvia and overall numbers of mobile third-country nationals is very low, available statistics are not divided by specific categories and is collected partly.

#### **2.2. Are statistics based on administrative registrations available in your (Member) State on the following groups of mobile third-country nationals? If they are not available could they in principle be made available from existing registrations?**

As the data on previous country of residence and education of applicant is collected since April, 2012, right now it is not possible to extract these data. In future it will be possible to extract mentioned data and to see the trends; the system is still under development and the functions will be improved.

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

1) *Long-term residents coming from another Member States (information should be collected by national contact points established under Directive 2003/109/EC on third-country national long-term residents)*

Data available only for those persons who apply for residence permit according to the provisions of the Subparagraph 23 of the Article 23 (1)<sup>3</sup> of the Immigration Law. National contact point of Latvia established under Directive 2003/109/EC informs respective country on long-term residents applying for the residence permit in Latvia, but it does not collect statistical data as this kind of data is not required by the Commission (EUROSTAT) for the evaluation.

Since 2006 only 1 first-time temporary residence permit has been issued (in 2007) for a long-term resident of another Member State who applied for a residence permit in Latvia and whose reason for entry was not related with remunerated activities, studies or family reunification (Article 14, par.2 c) of the Directive 2003/109/EC).

2) *EU Blue Card holders (information should be collected by national contact points established under Directive 2009/50/EC on EU Blue Card holders)*

In total 8 EU Blue Cards were issued in 2011.

3) *Researchers*

First-time temporary residence permits:

2008 – 2

2009 – 1

2010 – 7

2011 – 6

4) *Students*

First-time temporary residence permits:

2008 – 271

2009 – 212

2010 – 296

2011 – 459

5) *Posted workers*

Data is not available as posted workers are considered as ordinary workers and there is no possibility to set apart this group from all other employment related workers.

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

6) *Cross-border workers*

Data is not available as cross-border workers are considered as ordinary workers and there is no possibility to set apart this group from all other employment related workers.

7) *Seasonal workers*

Data is not available as Latvian legislation does not provide any special admission schemes for seasonal workers. They are considered as ordinary workers and there is no possibility to set apart this group from all other employment related workers.

8) *Workers in regulated professions*

Data is not available.

9) *Any other category of migrant not mentioned above*

No.

**2.3. Are there any other/proxy sources of statistics that could provide indications of patterns and trends?**

No.

**2.4. Please provide any statistics available on the flows of EU nationals within your (Member) State over the last 5 years in order to provide a comparison with the flows of third-country nationals**

**Total number of first-time issued residence permits to the third-country nationals, by purpose, 2008-2011**

	<b>Family</b>	<b>Education</b>	<b>Remunerated activities</b>	<b>Other</b>	<b>Total</b>
<b>2008</b>	2464	346	1823	3073	<b>7706</b>
<b>2009</b>	759	212	464	869	<b>2304</b>
<b>2010</b>	776	296	397	860	<b>2329</b>
<b>2011</b>	1761	459	519	1243	<b>3982</b>

Data source: Eurostat.

**Number of first-time issued registration certificates  
to the EU citizens, by purpose, 2008-2011**

	<b>Family</b>	<b>Education</b>	<b>Remunerated activities</b>	<b>Other</b>	<b>Total</b>
<b>2008</b>	73	265	1093	231	<b>1662</b>
<b>2009</b>	54	269	462	215	<b>1000</b>
<b>2010</b>	43	243	199	240	<b>825</b>
<b>2011</b>	55	279	401	312	<b>1047</b>

Data source: Office of Citizenship and Migration Affairs.



### Section 3

#### Identified Restrictions to Intra EU mobility of third-country nationals

**3.1. Member States (and Norway) may examine the situation of the labour market and give preference to Union (or EEA/EFTA) citizens when considering applications for work from a third-country national in another Member State or EFTA country.**

This provision is established by the EU Law in general and as related to Latvia – by the Treaty of Accession of Latvia. Provisions of Immigration Law clearly provide the preference to the EU citizens in the labour market when third-country national applies for residence permit with the purpose of employment if he/she is not exempt from this requirement. Third-country nationals, if they reside in another Member State, do not have any preference in comparison with third-country nationals residing outside the EU. The only exception is EU long-term residents residing in another Member States. In practice employers, if they are interested in admission of certain third-country nationals, may establish specific work requirements that only particular third-country nationals can fulfil.

**3.2. Minimum wages are often specified in the national legislative framework that may affect the decision of a third-country national, who is resident in one Member State (or EFTA country), to settle in another Member State (or Norway).**

As shadow economy is widespread in Latvia and there was a lot of cases established when the real amount of salary was not declared (especially within the management of companies) and, consequently, taxes were not being paid, it was decided that employers who employ third-country nationals have to ensure work remuneration in accordance with the average gross monthly work remuneration of working persons for the previous year (in accordance with the last information published by the Central Statistics Bureau). Thus, the possibility to admit low-skilled and low-paid workforce was diminished as theoretically, it is allowed to employ low-skilled workers without any qualification, but it is not profitable if average wage should be paid.

**3.3. If the third-country national who moves from another Member State (or EFTA country) is in a self-employed capacity, Member States (and Norway) may require that they have the appropriate funds which are needed, in accordance with national law, to exercise an economic activity in such capacity.**

If mobile third-country national moves to Latvia in a self-employed capacity, he/she shall submit a business plan examined by a sworn auditor for the expected period of activity and documents which certifies that he/she has adequate personal financial resources for commencing the activities specified in the business plan (Paragraph 44 and 45 of the Cabinet of Ministers Regulations No.564 “Regulation regarding Residence Permit” of 21 June, 2010). If third-country national founded a commercial company or joined already established company, aforementioned requirements are not applied, however a third-country national should prove that his/her personal income from commercial activities will be equal at least to double the average gross monthly work remuneration of working persons for the previous year (in accordance with the last information published by the Central Statistics Bureau).

**3.4. National rules or procedures governing the recognition of degrees and diplomas may affect the decision of a third-country national, who is resident in one Member State (or EFTA country), to settle in another Member State (or Norway).**

The list of regulated professions in Latvia is not large, mainly these are common to another EU Member States and relates to health sector (doctors, pharmacists, midwives etc.), as well as craftsmen and technicians, engineers, architects, teachers etc. The purpose of rules and procedures on recognition of degrees and diplomas is to guarantee quality and criteria of the professional activity if it is connected with protection of public interests, public safety and protection of health, to protect some socially important professions from involvement of non-qualified persons providing these professions with the requirements of a certain enhanced level.

There is no evidence that national rules and procedures governing the recognition of degrees and diplomas in Latvia somehow affected the decision of a third-country national to move to Latvia from another Member State, because they are common to the general EU regulation on that matter.

**3.5. National rules or procedures governing access to social security and social services for third-country nationals and their families may affect the decision of a third-country national, who is resident in one Member State (or EFTA country), to settle in another Member State (or Norway).**

Yes, it may affect the decision of a third-country national to move to another Member State due to scope and amount of social benefits available in particular Member State.

The amount of benefits which may be received in Latvia is small in comparison to other Member States. For third-country nationals social security system of Latvia is partially available. Third-country nationals, who are legally employed in Latvia, are eligible to receive several social benefits where the entitlements are based on social insurance payments. However, they are not eligible to receive state social benefits which are paid to inhabitants irrespective of their social insurance contributions made, as well as to social services, social assistance and legal aid. According to the Law on State Social Insurance (in force since 1 January, 1998) employees from third countries, based on social security contributions made, are eligible to receive the following benefits: sickness benefit, maternity and paternity benefit, parents' benefit, funeral allowance, disability benefit, indemnity related to an accident at work or occupational disease.

**3.6. Any other restrictions**

For third-country nationals there is no possibility to change the employer, which means that in case of any problems with particular employer third-country national is not flexible to change employers and get a residence permit on time without leaving the country.

## Section 4

### Conclusions

***With regard to the aims of this Focussed Study, what conclusions would you draw from your findings? What is the relevance of your findings to (national and/or EU level) policymakers?***

- In the context of small numbers of immigration flow, the flow of mobile third-country nationals who are moving from another Member States to Latvia is also small and insignificant to indicate any trends. A conclusion can be made that EU initiatives regarding mobility within the EU, have not influenced migration patterns in Latvia;
- economic, social and other factors provide that there is no special need for this category of immigrants at the moment and the same factors affect the decision of third-country nationals to move to Latvia;
- no special preferences are applicable for the mobile third-country nationals in comparison to those who are entering Latvia from third countries. The only exceptions are EU Blue card holders who can enter a labour market without an economic needs test and EU long-term residents who have preference if economic needs test is applied;
- at the moment there are no exact governmental plans to change rules and procedures regarding mobile third-country nationals in order to facilitate their admission. However, the Ministry of Interior is working on Conception on Migration Policy and it is possible that in the circumstances of insufficient supply of labour force mobile third-country citizens will be one of the target groups that could be attracted by offering more favourable admission conditions;
- mobile third-country nationals in comparison to the EU citizens have some significant restrictions, e.g., the minimal (average) wage is defined, social security system is partially available, no possibility to change an employer, the preference in labour market is to EU citizens, the free movement from one Member State to another is limited (states outside Schengen Agreement).

The European Migration Network was established by the European Union Council Decision 2008/381/EC of 14 May 2008. The objective of the European Migration Network is to meet the information needs of Community institutions and of Member States' authorities and institutions by providing up-to-date, objective, reliable and, comparable information on migration and asylum, thus supporting policy-making in the European Union in these areas. The European Migration Network shall also serve to provide general public with information on these subjects.

The Network consists of the European Commission and the designated contact points of the Member States. Each contact point forms a national migration network.

Each national contact point prepares studies, the topics of which are determined by the work programme of the respective year. The topics of the studies are related to the subject of migration of third-country nationals.

The Latvian Contact Point of the European Migration Network is the Office of Citizenship and Migration Affairs.

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