



ESTONIAN ACADEMY OF SECURITY SCIENCES  
EUROPEAN MIGRATION NETWORK

# VISA POLICY AS MIGRATION CHANNEL IN ESTONIA

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## **Executive summary**

Present study is an overview on how visa policy is used as a migration channel in Estonia. The aim of the study is to analyse the nexus between visa policy and migration management and control, including tackling irregular migration. In the framework of the study two case studies were carried out. Third countries observed in the case studies were Russia and Georgia.

Estonia's visa policy has remained quite stable in its core principles, though it has been strongly influenced by the changes brought along with the European *acquis* – Visa Code, Schengen Borders Code etc. Enforced visa facilitation agreements and entry into force of the Visa Code brought on a general strive for a more open visa policy in Estonia with favouring of *bona fide* travellers.

Full application of the Visa Code also brought on changes in Estonia's visa policy. Estonia has elaborated a procedure to guarantee the applicant's right to appeal, since prior to application of the respective provisions of the Visa Code Estonia neither gave out any reasons that brought on the visa refusal nor allowed for a visa refusal to be appealed.

Estonia's politicians have strong support for agreements on visa facilitation and readmission signed with third countries, especially with countries of Eastern Partnership.

Overall it might be concluded that even though becoming an EU member state and acceding the Schengen area, and thus becoming responsible for securing the external border of the EU, has put Estonia "on the map", Estonia's migration policy has remained quite stable and with that also the numbers of third-country nationals wishing to arrive and stay in Estonia. This is also very strongly connected to the fact that Estonia is still viewed as a transit country, from where one may easily travel (most likely) to Scandinavian countries, and not a destination country.

## 1. INTRODUCTION: PURPOSE AND METHODOLOGY FOLLOWED

Present study is an overview prepared within the framework of the European Migration Network (hereinafter the EMN) on how visa policy is used as a migration channel in Estonia. Statistics in the study are provided for the time period of 2004 to 2010.

This study is eleventh migration and asylum study prepared by the EMN Estonian contact point. Earlier studies are available at the web page of the EMN Estonian contact point at [www.sisekaitse.ee/erv](http://www.sisekaitse.ee/erv).

The aim of the study is to analyse the nexus between visa policy and migration management and control, including tackling irregular migration.

Present EMN study will serve to inform policymakers and analysts about the effects of visa policy on the management of migration, both in terms of facilitating legal migration and preventing irregular migration.

On the basis of studies presented by the national contact points the EMN compiles a summarised report. The summarised report will be compiled and published by the end of October 2011.

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

The study should also be seen in the context of the complementary EMN study on “*Practical measures for reducing irregular migration*”, which will also be undertaken in conjunction with this study on visa policy as a migration channel.

### **1.1 Methodology**

This report is compiled according to the specifications and structure of EMN Study 2011 “*Visa Policy as Migration Channel*”. Methodologically, this study is a so called Desk Research or secondary research, which uses already existing public information and no new studies or analyses were carried out for compiling the overview. For preparation of this paper,

existing public studies, legislation and overviews have been used and discussions in the media have also been observed.

During the course of preparation of this study different ministries and state departments were involved – the Ministry of Foreign Affairs, the Ministry of the Interior, the Police and Border Guard Board, and the Security Police Board – all of whom are at one or another level involved in visa issues.

## **1.2 Definitions**

Terms used in present study have been used in accordance with respective European Union (hereinafter the EU) *acquis*, e.g. the Visa Code<sup>1</sup>, the Schengen Borders Code<sup>2</sup> etc. Definitions of these terms may also be found in the EMN Glossary<sup>3</sup>.

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<sup>1</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code). OJ L 243, 15.09.2009, 1–58.

<sup>2</sup> Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code). OJ L 105, 13.04.2006, 1–32.

<sup>3</sup> Available online: <http://emn.sarenet.es/Downloads/prepareShowFiles.do?directoryID=117>.

## 2. POLICY AND LEGAL FRAMEWORK FOR THE GRANTING OF VISA IN ESTONIA

This chapter will provide an overview of Estonia's visa policy and legal framework for granting of visas.

### 2.1 National policy and legislative framework

#### 2.1.1 National policy

According to Main Guidelines of Estonia's Security Policy Until 2015<sup>4</sup>, which were approved by Riigikogu, the Estonian Parliament, in 2008, the state foresees under section "A Safer State" that it will reduce illegal immigration and illegal stay in Estonia. This is to be done via improvement of measures aimed at prevention, combating and discovering illegal immigration and accession of Estonia to the EU standardized Visa Information System (VIS), which is currently set to become operational in the second half of 2011.

The Coalition Programme of the Pro Patria and Res Publica Union and Estonian Reform Party<sup>5</sup> foresees under the Foreign Policy chapter that the Government will pursue visa freedom for Estonian citizens to more countries. In the Action Plan of the Government of the Republic 2011–2015<sup>6</sup>, which is drawn up for the implementation of the aforementioned Coalition Programme, this is considered to be an ongoing activity and is more reliant on visa waiver agreements between European Union and third countries.

Also under the Foreign Policy chapter the Government sets a goal to conduct an active business and culture diplomacy, and support Estonian entrepreneurs, cultural figures and export with the cooperation of the Ministry of Foreign Affairs and Enterprise Estonia<sup>7</sup>. For this purpose the Action Plan of the Government of the Republic 2011–2015 foresees different activities one of which is relevant for present study. Said activity is to extend the network of honorary consuls and use cooperation with diplomatic representation of other EU Member

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<sup>4</sup> RT I 2008, 25, 165. Available online: <https://www.riigiteataja.ee/akt/12979629>.

<sup>5</sup> The Coalition Programme of the Pro Patria and Res Publica Union and Estonian Reform Party. Available online: <http://valitsus.ee/UserFiles/valitsus/et/uudised/taustamaterjalid/Valitsusliit%20I.pdf>.

<sup>6</sup> Action Plan of the Government of the Republic 2011–2015. Available online: [http://www.valitsus.ee/UserFiles/valitsus/et/valitsus/tegevusprogramm/valitsuse-tegevusprogramm/VV%20tegevusprogramm%202011-2015\\_allkirjastatud%282%29.xls](http://www.valitsus.ee/UserFiles/valitsus/et/valitsus/tegevusprogramm/valitsuse-tegevusprogramm/VV%20tegevusprogramm%202011-2015_allkirjastatud%282%29.xls).

<sup>7</sup> Enterprise Estonia. Web page: <http://www.eas.ee/index.php?setlang=en-GB>.

States in Estonia's interests. This involves also signing additional visa representation agreements with EU Member States. Again, this has been and continuously is an ongoing activity.

Under the chapter of Competitive Economic Environment of the Coalition Programme of the Pro Patria and Res Publica Union and Estonian Reform Party the Government sets a goal to develop a social environment, which attracts investments and international business. This is planned to be achieved through creation of a favourable environment for foreign students and top specialist, which should boost the competitiveness of Estonian economy.

The Action Plan of the Government of the Republic 2011–2015 considers necessary to analyse improvement of visa conditions to achieve the set goal, which is planned for the fourth quarter of 2012.

Until a new document prescribing the Government's policy towards EU has been adopted, the former policy guidelines are still relevant. Estonia's European Union Policy 2007–2011<sup>8</sup> foresees that visa reciprocity as part of the common visa policy of the European Union must be based on the solidarity of Member States where the European Community is regarded as a single partner and a unified approach is established for visa requirements or visa exemptions with regard to citizens of third countries as well as those of the EU Member States. The conclusion of visa facilitation and readmission agreements with third countries must remain a priority of the migration policy of the European Union so that facilitating visa issuance procedures will help to develop relations between people as well as countries and to ensure quick performance of readmission obligation of persons illegally residing in a Member State. Estonia considers it important that the implementation of concluded agreements is monitored and if the third country is not fulfilling its obligation of readmission the Commission should be prepared to limit the visa facilitations provided in the agreements.<sup>9</sup>

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<sup>8</sup> Available online: [http://valitsus.ee/UserFiles/valitsus/en/government-office/european-union/eu-policy-of-the-government/the-government\\_s-eu-policy-for/ELPOL\\_2007\\_2011\\_EN.pdf](http://valitsus.ee/UserFiles/valitsus/en/government-office/european-union/eu-policy-of-the-government/the-government_s-eu-policy-for/ELPOL_2007_2011_EN.pdf).

<sup>9</sup> Estonia's European Union Policy 2007–2011, 36.

### **2.1.2 Legal framework**

Main aspects of Estonia's alien law are regulated in the Aliens Act.<sup>10</sup> Aliens Act regulates rules on arrival to, stay, living and working in Estonia for third country nationals and the bases for legal liability of aliens.<sup>11</sup> Aliens Act does not cover such groups of aliens as citizens of the EU and their family members, and aliens who have been granted international protection.<sup>12</sup>

According to the Aliens Act, an alien is obliged to be in possession of a legal basis upon arrival and during his or her stay in Estonia. One of such legal basis is a visa issued either by an Estonian consular post or by a consular post of another EU Member State (if the conditions of a visa do not exclude Estonia).<sup>13</sup>

Estonia issues three types of visas – airport transit visa (or type A visa), short-stay visa (or type C visa) and long-stay visa (or type D visa).<sup>14</sup> Two out of three – type A and type C visas – are issued in accordance with Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community code on Visas (Visa Code)<sup>15</sup> (hereinafter the Visa Code).<sup>16</sup>

Long-stay or type D visa is a national visa issued in accordance with the Estonian law. Estonia issues long-stay visas to a third country national for multiple or single entries<sup>17</sup> into and stay in Estonia not exceeding 6 months at a time, if an international agreement does not foresee otherwise<sup>18</sup>. The Aliens Act also enacts that the validity of a long-stay visa shall not exceed 12 months.<sup>19</sup>

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<sup>10</sup> RT I, 30.06.2011, 3.

<sup>11</sup> Aliens Act § 1 (1).

<sup>12</sup> Aliens Act § 1 (2) and (3).

<sup>13</sup> Aliens Act § 43 (1) 1) and 2).

<sup>14</sup> Aliens Act § 57.

<sup>15</sup> OJ L 243, 15.09.2009, 1–58.

<sup>16</sup> Aliens Act § 58 and § 59.

<sup>17</sup> Aliens Act § 60 (1).

<sup>18</sup> Aliens Act § 60 (3).

<sup>19</sup> Aliens Act § 60 (2).



## 2.2 Agreements with third countries

Estonia implements visa requirements in accordance with Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.<sup>20</sup>

According to Article 4 of the abovementioned regulation Estonia has also provided exemptions to holders of diplomatic passports, service/official passports or special passports of various third countries. Specifically, visa exemptions have been granted by Estonia to following third countries whose nationals are holders of either diplomatic, service/official or special passports: the Republic of Albania, the Republic of Armenia, the Republic of Azerbaijan, the Plurinational State of Bolivia, Bosnia and Herzegovina, the Federative Republic of Brazil, the Republic of Philippines, Georgia, the Republic of Kazakhstan, the former Yugoslav Republic of Macedonia, the Kingdom of Morocco, Montenegro, the Republic of Peru, the Republic of Serbia, the Republic of Turkey, Ukraine, the Russian Federation (hereinafter Russia). Also exempt from a visa requirement are holders of United Nations laissez-passer.<sup>21</sup>

European Union has signed several visa facilitation agreements, which have entered into force and are applicable also by Estonia and relevant at the time of writing the present study. The main purpose of the visa facilitation agreements is to facilitate, on the basis of reciprocity, the issuance of short-stay visas (90 days per period of 180 days). These agreements have been signed with following third countries: Ukraine,<sup>22</sup> the Republic of Moldova,<sup>23</sup> Russia,<sup>24</sup> the Republic of Serbia,<sup>25</sup> the Republic of Montenegro,<sup>26</sup> the Former Yugoslav Republic of Macedonia,<sup>27</sup> Bosnia and Herzegovina,<sup>28</sup> the Republic of Albania<sup>29</sup> and with Georgia<sup>30</sup>. Estonia does not have any bilateral visa facilitation agreements.

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<sup>20</sup> OJ L 81, 21.03.2001, 1–7.

<sup>21</sup> Ministry of Foreign Affairs. Available online: <http://www.vm.ee/?q=node/4850>.

<sup>22</sup> OJ L 332, 18.12.2007, 66–76.

<sup>23</sup> OJ L 334, 19.12.2007, 168–179.

<sup>24</sup> OJ L 129, 17.05.2007, 25–34.

<sup>25</sup> OJ L 334, 19.12.2007, 136–147.

<sup>26</sup> OJ L 334, 19.12.2007, 108–119.

<sup>27</sup> OJ L 334, 19.12.2007, 120–135.

<sup>28</sup> OJ L 334, 19.12.2007, 96–107.

<sup>29</sup> OJ L 334, 19.12.2007, 84–95.

<sup>30</sup> OJ L 52, 25.02.2011, 33–44.

Estonia has signed altogether three agreements with third countries, which are relevant for present study, since a D type visa is issued for persons wishing to travel under these agreements. These agreements are aimed at promoting temporary migration among young people.

These youth mobility agreements have been signed with the Commonwealth of Australia<sup>31</sup>, New Zealand<sup>32</sup> and Canada<sup>33</sup>. Main aim of these agreements is to encourage exchange of youth between Estonia and previously listed third countries by granting a visa for a working holiday for a period of up to twelve (12) months.

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

The visa issued by Estonia, which allows the holder to stay in Estonia for these 12 months is a D type visa. Since generally a D type visa may be issued for stay of 6 months within a 12 month period, then a visa, issued on the basis of these agreements, is an exception to the rule.

### **2.3 Recent changes to Visa Policy and Legislation within context of a common EU dimension**

#### *Effects of the Visa Code*

Enforced visa facilitation agreements and entry into force of the Visa Code brought on a [general] strive for a more open visa policy in Estonia, which has seen favouring *bona fide*

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<sup>31</sup> 20 September 2004 Memorandum of Understanding was signed between the Government of the Republic of Estonia and the Government of Australia Relating to Working Holiday Visas. RT II 2005, 8, 17. Available online: [http://vlepingud.vm.ee/en/contract\\_view/3905](http://vlepingud.vm.ee/en/contract_view/3905).

<sup>32</sup> 28 September 2006 Arrangement on a Working Holiday Scheme was signed between the Government of Estonia and the Government of New Zealand. RT II 2007, 18, 49. Available online: [http://vlepingud.vm.ee/en/contract\\_view/4186](http://vlepingud.vm.ee/en/contract_view/4186).

<sup>33</sup> 14 December 2009 Agreement between the Government of the Republic of Estonia and the Government of Canada was signed Concerning Youth Exchanges. RT II 2010, 16, 68. Available online: [http://vlepingud.vm.ee/en/contract\\_view/3935](http://vlepingud.vm.ee/en/contract_view/3935).

travelers (visa applicants with prior positive visa history) by issuing them visas with a longer validity (5 years).<sup>34</sup>

Along with the abovementioned bid for a more open visa policy another change was undertaken with the aim of simplifying the visa procedure. Namely, an amendment of the Aliens Act<sup>35</sup> entered into force on 30 July 2009, which repealed the visa invitation regulation.

The aim of the visa invitation was to verify the circumstances of the arrival of the alien to Estonia and oblige the sponsor of the alien to host the alien in Estonia, ensure his or her accommodation and cover his or her costs of stay in and leaving from Estonia, including transport costs that were incurred when deporting the alien from Estonia.<sup>36</sup>

Pursuant to the above amendment of the Aliens Act the Police and Border Guard Board (then Citizenship and Migration Board) does not verify visa invitations of sponsors (natural or legal persons) since 30 July 2009. Visa invitations verified prior to that date did remain valid for the entire term of their validity, which was 6 months from the date of verification, but sponsor could not be held responsible for the costs incurred by the state in case of deportation of the alien.<sup>37</sup>

Currently, the alien applying for a visa still has to prove the aim of the trip, existence of accommodation and covering the costs of his or her stay in Estonia and leaving from Estonia. But, as of 30 July 2009 the alien has to prove these circumstances with other available documents.<sup>38</sup>

The Visa Code, which is fully applicable since 5 April 2011 has also brought on some changes in Estonia's visa policy, which were derived from Article 32 of the Visa Code.

Prior to the Visa Code becoming applicable, the Aliens Act provided two separate paragraphs of visa refusal grounds, one stating grounds occurrence of which brought on a definite

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<sup>34</sup> Kaska, V. (2010) "Estonia's Visa Policy in the Context of the European Union Common Visa Policy". *Proceedings of the Estonian Academy of Security Sciences*, Vol. 9, 199.

<sup>35</sup> Amendment Act of Identity Documents Act, Consular Act, Penal Code, State Fees Act, Aliens Act and Citizenship Act. RT I 2009, 27, 166.

<sup>36</sup> Kaska, 200.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

refusal<sup>39</sup> and the second one stating grounds occurrence of which might have brought on a refusal.<sup>40</sup>

Additionally to a much wider scope of grounds for visa refusal provided by the Aliens Act, said grounds were not set out in an exhaustive list. Meaning that any other justified ground, which was not listed in the Aliens Act could also result in a refusal to issue a visa.<sup>41</sup>

Paragraph 1 of Article 32 of the Visa Code sets out an exhaustive list of grounds for a visa refusal stating altogether only eight grounds. Limitation of grounds for visa refusal has made the visa issuing process a lot more rigid for the Estonian authorities participating in the visa issuance procedure.

Paragraphs 2 and 3 of Article 32 of the Visa Code became applicable as of 5 April 2011. Paragraph 2 foresees that “[a] decision on refusal and the reasons on which it is based shall be notified to the applicant by means of the standard form set out in Annex VI.” Paragraph 3 states an applicant’s, who has been refused a visa, right to appeal such a decision in accordance with the national law of the Member State, which refused the application. Similar provisions apply also in case of annulment and revocation of a visa.

As of 5 April 2011 all Member States, including Estonia have been obliged to give the visa applicant a written decision upon refusal of a visa noting the legal basis, which brought on the refusal. All Member States will also have to provide the applicant with the possibility of appealing a decision, which refuses, revokes or annuls the visa.<sup>42</sup>

Prior to the abovementioned provisions of the Visa Code becoming applicable the Aliens Act foresaw that a visa refusal need not be substantiated.<sup>43</sup> Visa applicant neither received any information about the grounds or reasons for the visa refusal<sup>44</sup> nor was provided with a possibility of appealing such a decision.<sup>45</sup> Though, despite not allowing the appeal of a

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<sup>39</sup> Aliens Act (RT I 1993, 44, 637; 2009, 62, 405) § 10<sup>10</sup> (1).

<sup>40</sup> Aliens Act § 10<sup>10</sup> (2).

<sup>41</sup> Kaska, 201.

<sup>42</sup> Kaska, 202.

<sup>43</sup> Aliens Act (RT I, 09.12.2010, 9) § 66 (1).

<sup>44</sup> Aliens Act § 66 (2).

<sup>45</sup> Aliens Act § 100 (1).

decision refusing a visa, the Aliens Act did provide for the decisions of annulment and revocation of a visa to be appealed by lodging an appeal with the administrative court.<sup>46</sup>

As of 5 April 2011 decision of refusing to issue a visa, annulment and revocation of a visa, but also decision refusing to extend the period of stay may be all appealed via challenge proceedings.<sup>47</sup>

Together with the Visa Code also a Regulation (EU) No 265/2010 of the European Parliament and of the Council amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa<sup>48</sup> entered into force, which extended the principle of equivalence between residence permits and short-stay visas issued by the Member States fully implementing the Schengen *acquis* to long-stay visas. As a result, a long-stay visa has the same effects as a residence permit as regards the freedom of movement of the holder in the Schengen area. According to the regulation, a third-country national, holding a long-stay visa issued by a Member State, is allowed to travel to other Member States, for three months in any six-month period, under the same conditions as the holder of a residence permit.<sup>49</sup>

The Regulation No 265/2010 does not affect the rules regarding the conditions for issuing long-stay visas. At the same time, the regulation does limit maximum validity of the long-stay visa allowed to issue by Member States.<sup>50</sup> Long-stay visas can have a period of validity of no more than 1 year and long-stay visas issued with validity longer than 1 year have to be replaced with a residence permit before the expiry of the validity of the issued visa.<sup>51</sup>

Up until 1 October 2010, Aliens Act foresaw issuing long-stay visas with the validity of 12 months<sup>52</sup>, but as of 1 October 2010, with the entering into force of the new Aliens Act<sup>53</sup>, the

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<sup>46</sup> *Ibid.*

<sup>47</sup> Aliens Act (RT I, 30.06.2011, 3) § 100<sup>1</sup>.

<sup>48</sup> OJ L 85, 31.03.2010, 1–4.

<sup>49</sup> Article 1(2).

<sup>50</sup> Kaska, 203.

<sup>51</sup> Article 1(1).

<sup>52</sup> Aliens Act (RT I 1993, 44, 637; 2010, 34, 184) § 10<sup>7</sup> (2).

<sup>53</sup> RT I 2010, 3, 4.

maximum validity of a long-stay visa went up to 24 months.<sup>54</sup> As of 5 April 2011 Estonia again issues long-stay visas with the validity of up to 12 months.<sup>55</sup>

Prior to 5 April 2010 Article 18 of the Schengen Convention<sup>56</sup> enabled holders of long-stay visas to “transit through the territories of the other Contracting Parties in order to reach the territory of the Contracting Party which issued the visa”. After the Regulation No 265/2010 became applicable, such limitations were lifted and it can thus be said that as of 5 April 2010 third-country nationals in possession of a long-stay visa have better possibilities of travelling within the Schengen area and also to and from their country of residence.<sup>57</sup>

### *Compensatory measure*

During the transitional period, i.e. before the new Member States fully implemented the Schengen *acquis*, they were allowed to issue visas for neighbouring states free of charge or for a low fee and on relatively uncomplicated terms. The EC visa facilitation agreements do not allow for special arrangements between the new member states and their neighbours. Hence, “though in principle the [visa facilitation] agreement is to ease the situation, after the New Member States accession to the Schengen area, it will worsen“.<sup>58</sup> Such predictions were made in 2008 and Estonia’s example proves them correct.

Estonia also had in place a simplified procedure for persons living near the border with Russia for application and issuance of visas from 2000 till 18 January 2009. According to this procedure persons living near the border were able to obtain visas free of charge or at a cheaper fee. Purpose of the travel had to be visiting close relatives living in or burial sites located in Russia. The amount of persons who were able to obtain visas under the simplified procedure was approximately 4000 persons on each side. This simplified procedure ended on 19 January 2009. The procedure was based on a bilateral arrangement with Russia. Naturally, when Estonia started issuing visas only on regular terms, i.e. according to the Schengen *acquis*, Russia stopped issuing visas on the basis of the simplified procedure as well.

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<sup>54</sup> Aliens Act (RT I 2010, 3, 4) § 60 (2).

<sup>55</sup> Aliens Act (RT I, 30.06.2011, 3) § 60 (2).

<sup>56</sup> OJ L 239, 22.09.2000, 19–62.

<sup>57</sup> Kaska, 204.

<sup>58</sup> Trauner, F., Kruse, I. (2008) “EC Visa Facilitation and Readmission Agreements: A new Standard EU Foreign Policy Tool?” *European Consortium for Political Research Fourth Pan-European Conference on EU Politics*, 16.

The transition from the more favourable arrangement to a much stricter regular visa application procedure brought on quite a lot of resentment from the persons living near the border (on both sides) and who had thus far been enjoying advantages brought on by this simplified procedure.<sup>59</sup>

In order to compensate for the loss of the simplified procedure and alleviate the financial burden of Estonian citizens visiting close relatives in Russia, Estonia's Minister for Regional Affairs enacted a visa fee compensation scheme for year 2009<sup>60</sup>, which entered into force on 15 January 2009.

According to the scheme Estonian citizens visiting a spouse or close relatives or their burial sites in Russia could apply for a compensation of the fee of the Russian visa (35 euro). Currently only the cost of two visas (total of 70 euro) may be compensated per annum. If from the simplified procedure only those living near the border or in the border area could benefit, then the compensation scheme did not foresee such a restriction. In order to obtain the compensation any Estonian citizen (living in any county) could submit an application for the compensation of the visa fee if the purpose of the trip was visiting a spouse or a close relative or their burial sites in Russia.

Originally a close relative was considered to be a mother, a father, a daughter, a son, a grandmother, a grandfather or a grandchild. Additionally, the relation was tied to the applicant, i.e. only applicant related to the categories of persons mentioned above was eligible for the compensation.

Later the list of close relatives was amended<sup>61</sup> to include also a brother and a sister. At the same time another amendment was made, which changed the scope of the compensation scheme to include as beneficiaries also persons who visit their spouse's close relatives in the territory of Russia.

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<sup>59</sup> Kaska, 204–205.

<sup>60</sup> 15 January 2009 Minister for Regional Affairs Directive No 4 “2009 support scheme for the compensation of the processing fee for the application for a visa to Russian Federation”.

<sup>61</sup> 25 September 2009 Minister for Regional Affairs Directive No 77 “Amendment of 15.01.2009 Minister for Regional Affairs Directive No 4 “2009 support scheme for the compensation of the processing fee for the application for a visa to Russian Federation””.

Minister for Regional Affairs has continued with the compensation scheme for the year 2010<sup>62</sup> and 2011<sup>63</sup>.

Compensatory measure has neither satisfied all the needs of the persons living in the border area nor eliminated all of the negative side effects which were brought on by joining the Schengen area, e.g. termination of the arrangement of the simplified procedure. Nonetheless, on the positive side of things it has to be noted that the compensation scheme equalized all Estonian citizens who wish to visit their spouse or a close relative or a close relative of a spouse or their burial sites in Russia.<sup>64</sup>

### *Visa representation*

Visa Code preamble foresees that Member States should present or be represented for visa purposes in all third countries whose nationals are subject to visa requirements. Member States lacking their own consulate in a given third country or in a certain part of a given third country should endeavour to conclude representation arrangements in order to avoid a disproportionate effort on the part of visa applicants to have access to consulates.

Paragraph 1 of Article 8 of the Visa Code states that a Member State may agree to represent another Member State that is competent [...] for the purpose of examining applications and issuing visas on behalf of that Member State. A Member State may also represent another Member State in a limited manner solely for the collection of applications and the enrolment of biometric identifiers.

As a small country, Estonia has a very limited number of representations in third countries, most of which are located in other Member States or third countries whose nationals do not need a visa to travel to EU.<sup>65</sup> That makes it inconvenient for alien's to apply for a visa to visit Estonia.<sup>66</sup>

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<sup>62</sup> 17 February 2010 Minister for Regional Affairs Directive No 24 "2010 support scheme for the compensation of the processing fee for the application for a visa to Russian Federation".

<sup>63</sup> 31 December 2010 Minister for Regional Affairs Directive No 271 "2011 support scheme for the compensation of the processing fee for the application for a visa to Russian Federation".

<sup>64</sup> Kaska, 206.

<sup>65</sup> List of Estonia's embassies and representations. Available online: <http://www.vm.ee/?q=en/taxonomy/term/42>.

<sup>66</sup> Koort, E., Pardla, M. (eds.) (2011) "Security Policy 2011. Report on the implementation of the "Main Guidelines of Estonia's Security Policy Until 2015", 30.



Estonia has made good use of the representation tool in order to facilitate application for a visa in countries where Estonia has no representation and signed visa representation agreements with several Member States.

By mid-2011 visa representation agreements have been concluded with 14 Schengen Member States that represent Estonia in 84 countries<sup>67</sup> in processing and issuing short-stay visas.

Estonia has concluded agreements with Denmark, Hungary, France, Finland, Switzerland, Slovenia, Latvia, Lithuania, the Netherlands, Spain, Austria, Germany, Poland and Sweden. Consular consultations with Member States for concluding visa representation agreements are an ongoing activity and a priority of the Government of the Republic.

Estonia itself represents six Member States (Finland, the Netherlands, Poland, Latvia, Slovenia and Denmark) in four countries (Russia (Pskov), Belarus (Minsk), Bulgaria (Sofia) and Georgia (Tbilisi)). Estonian foreign representations processed altogether 2640 visa applications in the name of other Schengen Member States in 2010.<sup>68</sup>

Visa representation agreements have proved to be a good tool for both, represented Member States and visa applicants. Via the representing Member State the represented Member State has access to a larger number of possible visa applicants. Visa applicants on the other hand do not have to go through the hardship of trying to locate nearest embassy or representation of a Member State to which they want to apply for a visa. This saves visa applicants resources otherwise paid as travelling costs. For example, Russia's citizens living in Kaliningrad oblast can apply for a visa to Estonia without travelling to Pskov or Moscow or St Petersburg since Estonia is now represented by Lithuania in Kaliningrad, Russia.<sup>69</sup>

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<sup>67</sup> List of third countries where another Schengen Member State represents Estonia in processing and issuing short-term visas. Available online: <http://www.vm.ee/?q=en/taxonomy/term/172>.

<sup>68</sup> Koort, Pardla, 31.

<sup>69</sup> Kaska, 210.

## 2.4 Recent changes to Visa Policy and Legislation relating to national visas

Changes related to the validity of the long-stay visa have been described in chapter 2.3 of the present study. There have been additional couple of changes in the legislation relating to long-stay visa, which is a national visa issued in accordance with the Estonian law.

First one has to do with the purpose of applying for a long-stay visa and the second one with an exemption from state fee when applying for a long-stay visa in case of nationals of specific third countries.

Before 1 October 2010, when the new wording of Aliens Act entered into force, the Aliens Act<sup>70</sup> allowed issuing of long-stay visas to representatives of following groups of third country nationals:

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

As of 1 October 2010 issuance of long-stay visa is not limited and thus can be applied for in innumerable cases. Still worth noting is that most long-stay visas prior to 1 October 2010 were issued to aliens who had registered their short-term employment in Estonia in accordance with the Aliens Act. Short-term employment, when registered, allows an alien, who is staying in Estonia on a legal basis, to work in Estonia for up to six months during a 12 month period.<sup>71</sup> Registration of short-term employment is limited to specific cases listed in the Aliens Act.<sup>72</sup>

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<sup>70</sup> Aliens Act (RT I 1993, 44, 637; 2010, 34, 184) § 10<sup>7</sup> (1).

<sup>71</sup> Aliens Act (RT I, 30.06.2011, 3) § 106 (1).

<sup>72</sup> *Ibid.*

In the beginning of 2010 the Government of the Republic decided on exempting Ukrainian citizens from paying the state fee when submitting an application for a long-stay visa.<sup>73</sup> Same exemption was granted to citizens of Belarus in the beginning of 2011.<sup>74</sup>

The Government decided on the exemption of Ukrainian citizens due to Estonia's foreign policy priority being Eastern Partnership, which means that it is in Estonia's interest to promote free movement of persons from countries participating in the Eastern Partnership. Exemption from state fee upon application for a long-stay visa is noted as one possibility of promoting reform in Ukraine and further integration with EU. Exemption is first and foremost aimed at promoting bilateral business relations and trade in goods, but also at deepening cooperation in the field of development, education and scientific research and facilitating people-to-people contacts.<sup>75</sup>

The Government decided on the exemption of Belarus citizens in order to promote cooperation in the field of development, education and scientific research and to facilitate people-to-people contacts, but also for facilitating bilateral business relations and trade in goods. Government's decision followed Poland's and Latvia's example of exempting Belarus citizens from state fee in case of applying for a long-stay visa.<sup>76</sup>

These three changes in the visa policy regarding the long-stay visa have been aimed at promoting/ facilitating legal immigration.

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<sup>73</sup> 21 January 2010 Government of the Republic Order No 14 "Exempting Ukrainian citizens from obligation to pay state fee for review of long-term visa application". RTL 2010, 4, 78.

<sup>74</sup> 3 February 2011 Government of the Republic Order No 46 "Exempting Belarus citizens from obligation to pay state fee for review of long-term visa application". RT III, 07.02.2011, 9.

<sup>75</sup> Commented agenda of Government's 21.01.2010 sitting. Available online: <http://www.valitsus.ee/et/uudised/istungid/istungite-paevakorrad/6434/valitsuse-21012010-istungi-kommenteeritud-paevakord>.

<sup>76</sup> Commented agenda of Government's 03.02.2011 sitting. Available online: <http://www.valitsus.ee/et/uudised/istungid/istungite-paevakorrad/23662/valitsuse-03022011-istungi-kommenteeritud-paevakord>.

### 3. PRACTICAL IMPLEMENTATION AND ORGANISATION

#### 3.1 General procedure followed in Stages of the Visa Procedure

##### *Applying for a visa*

Estonian authorities follow the visa application procedure prescribed in the Visa Code when an alien applies for an airport transit or short-stay visa.

As a rule, applications for all visa types are submitted to and visas are issued by the Estonian foreign representation and visas are not generally issued at the border checkpoint. Short-stay visa may be applied for at the border checkpoint in accordance with the Visa Code.<sup>77</sup> Airport transit and long-stay visas are not issued at the border checkpoint.<sup>78</sup>

As of 15 December 2010 Estonian Embassy in Kiev cooperates with Pony Express in the field of submission of Schengen visa applications. Pony Express accepts Schengen visa applications to Estonia in six regional centers: Dnepropetrovsk, Donetsk, Kharkov, Lvov, Odessa and Simferopol.<sup>79</sup>

As of 4 May 2011 Estonian Embassy in Moscow expanded its cooperation with Pony Express, which has made possible for people living in Moscow and surrounding areas to submit visa applications for traveling to Estonia via Pony Express service points located in Moscow.<sup>80</sup>

And as of 8 August 2011 Consulate General of Estonia in St. Petersburg started cooperation with Pony Express in accepting visa applications in the latter's centers in St. Petersburg and in six more cities of North-West Russia: Arkhangelsk, Murmansk, Petrozavodsk, Velikiy Novgorod, Vologda and Kingissepp.<sup>81</sup>

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<sup>77</sup> Aliens Act § 63 (2).

<sup>78</sup> Aliens Act § 63 (3).

<sup>79</sup> 13 December 2010 press release of the Ministry of Foreign Affairs. Available online: <http://www.vm.ee/?q=node/10416>.

<sup>80</sup> 6 May 2011 press release of the Ministry of Foreign Affairs. Available online: <http://www.vm.ee/?q=node/11554>.

<sup>81</sup> 8 August 2011 press release of the Ministry of Foreign Affairs. Available online: <http://www.vm.ee/?q=node/12231>.

As previously noted, the external service provider only accepts short-stay visa applications and when a person wants to apply for a long-stay visa, then one has to turn to the Estonian representation. Nonetheless, use of the external service provider has made the system of applying for a visa a lot more accessible and convenient for applicants.

### *The application and supporting documents*

A long-stay visa may be issued to an alien if:<sup>82</sup>

- 1) he or she has a valid travel document;
- 2) the purpose and reason of his or her planned stay in Estonia have been proved and these are in accordance with the provisions of legislation regulating the temporary stay of aliens in Estonia;
- 3) it is proved that the costs relating to his or her accommodation and stay are covered during his or her stay in Estonia;
- 4) he or she proves the intention to leave Estonia no later than upon termination of the period of stay;
- 5) it is proved that the costs relating to his or her return to his or her country of origin or departure from Estonia into another country, into which he or she has a legal basis to enter, are covered;
- 6) he or she has a valid health insurance policy guaranteeing that any costs related to his or her medical treatment as a result of illness or injury during the period of validity of the visa will be met.

Specific requirements when applying for a long-stay visa are laid down by the Government of the Republic in a regulation<sup>83</sup> (hereinafter *Regulation No 83*).

Documents that need to be submitted when applying for a long-stay visa are following:<sup>84</sup>

- 1) valid travel document;
- 2) application;

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<sup>82</sup> Aliens Act § 62 (2).

<sup>83</sup> 17.06.2010 Government of the Republic Regulation Regulation No 83 „Laying down conditions and a list of documents and information to be submitted upon application for the issue of a long-term visa and extension of the period of stay, and terms for the issue of and refusal to issue a visa, the extension of and refusal to extend period of stay, the premature termination of period of stay, the annulment and revocation of a visa, and the rate of sufficient funds and the rate of insurance coverage of the health insurance policy” (RT I 2010, 45, 268; 2010, 60, 407) § 1.

<sup>84</sup> Regulation No 83 § 3 (1).

- 3) photo;
- 4) valid health insurance policy, which will guarantee coverage of medical treatment expenses in case of illness or injury during the validity of the visa;
- 5) documents proving the aim and reason of the trip;
- 6) documents proving sufficient funds during his or her stay in Estonia;
- 7) documents proving coverage of costs related to his or her accommodation and stay during his or her stay in Estonia;
- 8) document proving payment of state fee or document proving partial or complete exemption from state fee.

Regulation No 83 foresees that the travel document presented by the applicant has to correspond to the requirements listed in the Identity Documents Act<sup>85</sup> § 16:

- 1) document is issued and data has been entered into the document legitimately and by an authorized authority;
- 2) the validity of the document has not ended;
- 3) document is usable and it is possible to identify made entries and their correctness and verify the users identity;
- 4) document is complete and has not been damaged.

Additional requirements set for the travel document of a visa applicant include that the travel document has to be issued in the last ten years and have at least two free pages or a separate sheet for affixing a visa. Also, the document has to be valid for at least three months after the end of the validity of the visa. For humanitarian reasons a long-stay visa may be affixed in a travel document, which is valid for less than 3 months after the end of the validity of the visa, if the alien's departure from Estonia is guaranteed in the term foreseen by the visa.

When applicable, the applicant is obliged to submit either with the application a document confirming payment of the state fee or pay it on the spot. The amount of the state fee for reviewing a long-stay visa application is 80 euro.<sup>86</sup>

Amount of sufficient funds per one day of stay in Estonia corresponds to approximately 55,60 euro.<sup>87</sup>

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<sup>85</sup> RT I, 09.12.2010, 14.

<sup>86</sup> State Fees Act (RT I, 23.03.2011, 7) § 257<sup>7</sup> (3).

Sufficient health insurance policy is one for the minimum amount of 30 000 euro valid for the time of stay in Estonia or in the territory of Schengen Member States.<sup>88</sup>

The alien may submit following documents to prove the aim and reason of the trip, availability of sufficient funds during his or her stay in Estonia and coverage of costs related to his or her accommodation and stay during his or her stay in Estonia:<sup>89</sup>

- 1) confirmation of a private or legal person visited by the alien;
- 2) diplomatic note or a written inquiry of an international organization;
- 3) summons to court;
- 4) documents proving the use of tourism services or copies thereof;
- 5) documents proving the use of leisure services or copies thereof;
- 6) document proving the right to enter next transit country;
- 7) documents proving freight transport by road;
- 8) documents proving working in Estonia;
- 9) air or transport tickets;
- 10) any other documents not mentioned above.

According to Aliens Act § 60 (5) in case an alien is granted a long-stay visa for the purpose of short-term employment, then alien's spouse and child (both minor and adult, who is not capable due to his or her state of health or disability to cope independently) are granted a visa on the same conditions as the aforementioned alien. In such a case, the spouse and the minor child of the alien applying for a long-stay visa have to provide additionally to the abovementioned documents a document proving accordingly either marital status or descent from the alien. Adult child of an alien applying for a long-stay visa has to provide documents proving descent, but also documents concerning the state of health or disability.<sup>90</sup>

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<sup>87</sup> Regulation No 83 § 12 and 11 June 2009 Government of the Republic Regulation No 90 "Determination of the minimum rate of remuneration" (RT I 2009, 31, 192; 2010, 60, 407) § 1.

<sup>88</sup> Regulation No 83 § 13.

<sup>89</sup> Regulation No 83 § 3 (2).

<sup>90</sup> Regulation No 83 § 4.

### *Processing of an application*

A decision on the long-stay visa application is made within 30 days from the acceptance of the application, in case an international agreement does not foresee otherwise.<sup>91</sup>

A decision on a visa application (includes all visa types) at the Estonian foreign representation is made by a consular official.<sup>92</sup> The consular official is obliged to get an approval from authorities in the area of government of the Estonian Ministry of the Interior that are appointed by the Minister of the Interior.<sup>93</sup> If one of the aforementioned authorities does not approve issuing of a visa to an alien, then the consular official may still issue a visa, but is obliged to give an explanation of such a decision.<sup>94</sup>

Authorities appointed by the Minister of the Interior to approve issuing of a visa to an alien are Security Police Board, and Police and Border Guard Board<sup>95</sup> (the latter combines as of 1 January 2010 the Police Board, the Border Guard Board, and the Citizenship and Migration Board). These authorities either approve or disapprove issuing of a visa to an alien on the basis of information available to them. Information about the approval process is not made available neither to the alien nor any other person.<sup>96</sup>

All visa related proceedings are done via the visa register<sup>97</sup>, which is the national interface through which information will be made available to and from the VIS.

Short-stay and airport transit visa is refused on the grounds and following the procedure provided for in the Visa Code.<sup>98</sup>

Long-stay visa is refused, if at least one of the following bases occurs:<sup>99</sup>

- 1) alien is not in a possession of a valid travel document;

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<sup>91</sup> Regulation No 83 § 8 (2).

<sup>92</sup> Aliens Act § 81.

<sup>93</sup> Aliens Act § 82 (1).

<sup>94</sup> Aliens Act § 82 (2).

<sup>95</sup> 14 July 2010 Minister of the Interior Regulation No 29 “Appointment of competent authorities to approve issuing of a visa”. RT I 2010, 61, 440.

<sup>96</sup> Aliens Act § 82 (3).

<sup>97</sup> 17 June 2010 Government of the Republic Regulation No 86 “Statutes of the Visa Register”. RT I, 11.05.2011, 8.

<sup>98</sup> Aliens Act § 65 (1).

<sup>99</sup> Aliens Act § 65 (2).



- 2) alien's travel document or entries in it are false, counterfeit or forged;
- 3) there is basis to believe that alien's claimed purpose of the trip does not correspond to the actual purpose;
- 4) the alien does not have sufficient means for subsistence, taking into consideration the length and nature of stay in Estonia, or for return to country of origin or for transfer to a transit country;
- 5) there is an alert issued by Estonia or in the Schengen Information System for the purpose of refusing entry;
- 6) the alien is considered to be a threat to public policy, internal security, international relations or public health;
- 7) there are reasonable doubts as to the authenticity of the supporting documents submitted by the alien or the veracity of their contents, the reliability of the statements made by the alien or his intention to leave Estonia before the expiry of the long-stay visa.

A visa refusal is neither justified nor is the alien or any other person given the reason for a refusal.<sup>100</sup>

#### *Upon entry into country*

Persons arriving to or leaving Estonia may cross the external border only via border crossing points opened for international travel during the opening hours.<sup>101</sup> Persons who are not given permission to cross the border, also persons who have crossed the external border illegally are apprehended and returned in accordance with legal acts of EU, international agreements and Estonian law to the country from where or through which they have arrived to Estonia.<sup>102</sup> The carrier or carrier's representative who transported the persons not given permission to enter Estonia is responsible for arranging the return and covering subsequent costs of such persons.<sup>103</sup>

Authority responsible for border control is the Police and Border Guard Board.<sup>104</sup>

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<sup>100</sup> Aliens Act § 66 (1) and (2).

<sup>101</sup> State Borders Act (RT I, 09.12.2010, 3) § 9 (1).

<sup>102</sup> State Borders Act § 9<sup>1</sup> (1).

<sup>103</sup> State Borders Act § 9<sup>1</sup> (2).

<sup>104</sup> Police and Border Guard Act (RT I, 22.03.2011, 12) § 3 (1) 6).

Rules governing border control of persons crossing Estonia's border, which is the external border of the Schengen area, is regulated in the Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).<sup>105</sup>

A temporary stay in Estonia is considered to be alien's stay in Estonia without a residence permit or right.<sup>106</sup>

For (entry and) temporary stay in Estonia an alien is obliged to be a holder of a legal basis, which includes:<sup>107</sup>

- 1) a visa issued by a competent Estonian authority;
- 2) a visa issued by a Member State of the Schengen area, if the conditions of the visa do not exclude the right to enter Estonia;
- 3) the right to stay in Estonia arising from an international agreement;
- 4) the right to stay in Estonia arising from a resolution of the Government of the Republic to forego the visa requirement;
- 5) the right or obligation to stay in Estonia directly arising from law, a court decision or an administrative act;
- 6) a residence permit issued by a competent authority of a Schengen Member State;
- 7) a diplomatic or service card issued by the Ministry of Foreign Affairs to member of accredited personnel of a diplomatic representation or consular authority of a foreign country and representation of an international organization, their family members and private personnel;
- 8) a long-stay visa issued by a competent authority of a Schengen Member State in accordance with the Regulation (EU) No 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa<sup>108</sup>.

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<sup>105</sup> OJ L 105, 13.04.2006, 1–32.

<sup>106</sup> Aliens Act § 7.

<sup>107</sup> Aliens Act § 43 (1) and (2).

<sup>108</sup> OJ L 85, 31.03.2010, 1–4.

According to the Aliens Act, alien and any other person involved is obliged to inform an administrative authority on changes or lapses in relevant circumstances related to alien's temporary stay in Estonia.<sup>109</sup>

### *Visa extension*

Period of stay allowed by the legal basis for temporary stay in Estonia, either visa or any other, is not usually extended<sup>110</sup>, but in exceptional cases it can be done for up to 90 days, if circumstances have emerged, which the alien was not aware of prior to coming to Estonia or new circumstances have emerged after alien's arrival to Estonia.<sup>111</sup> In case of extension of period of stay allowed by a Schengen visa, the Visa Code Article 33 is applied.

The circumstances, which require alien's continuous temporary stay in Estonia or prevent him or her from leaving Estonia, are considered to be at least one of the following: 1) force majeure; 2) humanitarian reason; 3) serious professional reasons; 4) serious personal reasons.<sup>112</sup>

Extension of the period of stay is submitted to and decided by the Police and Border Guard Board.<sup>113</sup>

### *Annulment and revocation of a visa*

A visa may be annulled or revoked. A short-stay visa and airport transit visa is annulled and revoked as prescribed in the Visa Code Article 34.

A long-stay visa is annulled and revoked, if at least one of the following conditions is applicable:<sup>114</sup>

- 1) alien is not in a possession of a valid travel document;
- 2) alien's travel document or entries in it are false, counterfeit or forged;

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<sup>109</sup> Aliens Act § 20 (1).

<sup>110</sup> Aliens Act § 46 (1) and § 67 (1).

<sup>111</sup> Aliens Act § 46 (2) and § 67 (3).

<sup>112</sup> Aliens Act § 46 (3) and § 67 (4).

<sup>113</sup> Aliens Act § 50 (1) and § 83.

<sup>114</sup> Aliens Act § 78 (2).

- 3) there is basis to believe that alien's claimed purpose of the trip does not correspond to the actual purpose;
- 4) the alien does not have sufficient means for subsistence, taking into consideration the length and nature of stay in Estonia, or for return to country of origin or for transfer to a transit country;
- 5) there is an alert issued by Estonia or by another Member State in the Schengen Information System for the purpose of refusing entry;
- 6) the alien is considered to be a threat to public policy, internal security, international relations or public health;
- 7) there are reasonable doubts as to the authenticity of the supporting documents submitted by the alien or the veracity of their contents, the reliability of the statements made by the alien or his intention to leave Estonia before the expiry of the long-stay visa.

Authorities competent to annul and revoke visas are the Ministry of Foreign Affairs, the Police and Border Guard Board and the Security Police Board.<sup>115</sup>

#### *Appealing against a visa decision*

According to Visa Code Article 32 (3), applicants who have been refused a visa shall have the right to appeal. Appeals shall be conducted against the Member State that has taken the final decision on the application and in accordance with the national law of that Member State. Present clause has been applicable by Member States as of 5 April 2011, in accordance with Visa Code Article 58 (5).

As of 5 April 2011 the Aliens Act has enacted the possibility for an alien to appeal a visa refusal via the challenge procedure.<sup>116</sup> The challenge procedure also applies to appealing a decision on revocation and annulment of a visa and refusal to extend the period of stay.<sup>117</sup>

Prior to 5 April 2011 the Aliens Act did not foresee the possibility to appeal a visa refusal, but did foresee the possibility to appeal via judicial proceedings a decision regarding extension of

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<sup>115</sup> Aliens Act § 85 and § 86.

<sup>116</sup> Amendment Act of the Aliens Act, State Fees Act and Aviation Act. RT I, 23.03.2011, 2.

<sup>117</sup> Aliens Act § 100<sup>1</sup> (1).

period of stay, revocation and annulment of a visa within ten days since the day of the procedural act.<sup>118</sup> Thus, full application of the Visa Code has harmonised Estonia's internal procedures in relation to appealing possibilities for aliens.

A decision of visa refusal, revocation, annulment and refusal to extend the period of stay may be challenged within 30 days after the alien has been given notice of an aforementioned decision.<sup>119</sup>

During the challenge proceedings the competent authority checks the lawfulness and necessity of the decision made.<sup>120</sup>

The Aliens Act foresees the possibility of appealing the abovementioned decisions in two instances, so a double review of the lawfulness and necessity of the made decision is guaranteed.<sup>121</sup> The alien has 30 days to appeal visa refusal decision, decision on revocation and annulment of the visa and refusal to extend the period of stay in both instances.<sup>122</sup> The competent authority has 15 days to review the appeal in both instances.<sup>123</sup>

In the first instance, the alien's appeal is reviewed and, if necessary, a new decision is taken by the authority who made the decision of visa refusal, visa annulment or revocation and refusal to extend the period of stay in the first place – either an Estonian foreign representation (visa refusal, visa revocation and annulment decisions), the Police and Border Guard Board (visa refusal, visa revocation and annulment decisions, also decisions on refusal to extend the period of stay) or the Security Police Board (decisions of visa revocation and annulment).<sup>124</sup> In case the visa refusal was brought on due to not receiving approval from either the Security Police Board or the Police and Border Guard Board, then the Estonian foreign representation shall forward the alien's visa application for a new approval to the corresponding authority.<sup>125</sup>

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<sup>118</sup> Aliens Act (RT I, 09.12.2010, 9) § 100 (1).

<sup>119</sup> Aliens Act (RT I, 30.06.2011, 3) § 100<sup>1</sup> (1).

<sup>120</sup> Aliens Act § 100<sup>6</sup> (1).

<sup>121</sup> Aliens Act § 100<sup>1</sup> and § 100<sup>10</sup>.

<sup>122</sup> Aliens Act § 100<sup>1</sup> (1) and § 100<sup>10</sup> (1).

<sup>123</sup> Aliens Act § 100<sup>6</sup> (3) and § 100<sup>14</sup> (5).

<sup>124</sup> Aliens Act § 100<sup>5</sup> (1), (2) and (3).

<sup>125</sup> Aliens Act § 100<sup>5</sup> (4).

In the second instance, the alien's appeal is reviewed and, if necessary, a new decision is taken by either the Ministry of Foreign Affairs (in case the decision of visa refusal, annulment or revocation was made by the Estonian foreign representation) or the Ministry of the Interior (in case the decision of visa refusal, visa annulment or revocation and refusal to extend the period of stay was made by either the Security Police Board or the Police and Border Guard Board).<sup>126</sup>

If during the review of the appeal in the second instance it appears that the visa was refused due to not receiving an approval to issue a visa to an alien by either the Security Police Board or the Police and Border Guard Board, then the Ministry of Foreign Affairs involves the Ministry of the Interior in the proceeding.<sup>127</sup> In such a case, the Ministry of the Interior checks whether the decision to not approve issuing a visa to an alien by either the Security Police Board or the Police and Border Guard Board was lawful and necessary.<sup>128</sup>

As a result of both instances of the appeal procedure the reviewing administrative authority may:

- 1) satisfy the appeal and declare the decision of visa refusal, visa annulment or revocation and refusal to extend the period of stay invalid and make a new decision;
- 2) not satisfy the appeal and not change the decision of visa refusal, visa annulment or revocation and refusal to extend the period of stay unchanged.<sup>129</sup>

If the decision of the first instance in the challenge procedure may be appealed again, then the decision of the second instance<sup>130</sup> of the challenge procedure may not be appealed and is final.<sup>131</sup>

There is also one exception when a visa refusal decision is appealed, which foresees that if an alien has appealed a visa refusal decision and submits a new visa application to the Estonian foreign representation, then the latter visa application is not reviewed until a final decision has

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<sup>126</sup> Aliens Act § 100<sup>14</sup> (1) and (2).

<sup>127</sup> Aliens Act § 100<sup>14</sup> (3).

<sup>128</sup> Aliens Act § 100<sup>14</sup> (4).

<sup>129</sup> Aliens Act § 100<sup>7</sup> and § 100<sup>15</sup>.

<sup>130</sup> Aliens Act § 100<sup>10</sup> (1).

<sup>131</sup> Aliens Act § 100<sup>18</sup>.

been reached (during the course of the challenge proceedings) in relation to the first visa application.<sup>132</sup>

### **3.2 Visa issuance for the purpose of legal immigration – specific procedure followed in the Stages of the Visa Procedure**

#### ***3.2.1 National Visa Practices for admission of third-country nationals***

##### ***Scenario 1: The Visa is a prerequisite for obtaining a residence permit – residence permit application in country of origin***

Not applicable to Estonian case, since a visa is not a condition for admission to Estonia in case the alien has applied for a residence permit in the country of origin or a prerequisite for obtaining a residence permit.

##### ***Scenario 2: The Visa is a prerequisite for obtaining a residence permit - residence permit application upon arrival in (Member) State***

Not applicable to Estonian case, since visa is not a prerequisite for obtaining a residence permit.

##### ***Scenario 3: A residence permit can be obtained directly in the country of origin***

Applicable to Estonian case as an alien wishing to obtain an Estonian residence permit is obliged to apply for it at the Estonian foreign representation.

After the Estonian foreign representation has identified the alien or verified the alien's identity and captured his or her biometrics, it forwards the application to the Police and Border Guard Board where it is then processed.<sup>133</sup> The Aliens Act foresees exceptions to the rule, meaning that certain categories of aliens are allowed to submit their (temporary)

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<sup>132</sup> Aliens Act §100<sup>19</sup>.

<sup>133</sup> Aliens Act § 215.

residence permit applications directly to the Police and Border Guard Board in Estonia. These are:<sup>134</sup>

- 1) Estonians and their spouses and minor children;
- 2) the spouses and minor children of Estonian citizens;
- 3) children under one year of age descending from aliens who reside in Estonia on the basis of a residence permit;
- 4) aliens for activities in the framework of an international program of co-operation involving agencies with state or local government participation;
- 5) aliens who stay in Estonia on the basis of a temporary residence permit and apply for a new temporary residence permit;
- 6) aliens to whom the Police and Border Guard Board has granted such permission as an exception on the condition that they are unable to apply for a residence permit at a representation of Estonia for good reason;
- 7) aliens to whom the Minister of Internal Affairs has, on the basis of a reasoned proposal of a member of the Government of the Republic, granted a permission therefore on the grounds that their entry into Estonia is necessary in the national interests;
- 8) aliens who are citizens of a state with whom Estonia has entered into an agreement for visa-free travel or whose citizens are unilaterally relieved of the visa requirement in Estonia, and the spouses and children of the specified aliens;
- 9) citizens of United States of America and Japan and their spouses and minor children;
- 10) aliens who settled in Estonia before 1 July 1990 and have not thereafter left Estonia to reside in another country and to whom issue of a residence permit or extension of a residence permit has not been refused or whose residence permit has not been revoked;
- 11) aliens possessing a long-term resident's residence permit issued by a EU Member State, except for Estonia, and applying for a temporary residence permit for studying, employment or for engagement in enterprise;
- 12) spouses and minor children possessing a residence permit issued by a EU Member State of the aliens mentioned in previous point, if the family was created in the Member State, which issued the long-term resident's residence permit;

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<sup>134</sup> Aliens Act § 216 (1).



- 13) aliens whose long-term resident's residence permit has been revoked because they have submitted false information or used fraud to get the long-term resident's residence permit, in two months after the long-term resident's residence permit was revoked;
- 14) aliens legally staying in Estonia and applying for a residence permit for studying at an officially certified Master's or Doctoral study programme;
- 15) aliens legally staying in Estonia and applying for an EU Blue Card;
- 16) aliens in possession of an EU Blue Card issued by another EU Member State and applying for an EU Blue Card in Estonia; and their spouses who have been issued a residence permit by another EU Member State as a family member of an alien in possession of an EU Blue Card and who are applying for an Estonian residence permit to settle with their spouse; and their close relatives who have been issued a residence permit by another EU Member State as a family member of an alien in possession of an EU Blue Card and who are applying for an Estonian residence permit to settle with their relative.

Temporary residence permit is issued to an alien:<sup>135</sup>

- 1) to settle with a spouse permanently resident in Estonia;
- 2) to settle with a close relative permanently resident in Estonia;
- 3) for studying;
- 4) for employment;
- 5) for engagement in enterprise;
- 6) whose sufficient legal income ensures his or her subsistence in Estonia;
- 7) whose application for a residence permit is based on an international agreement (e.g. Agreement between the Republic of Estonia and the Russian Federation on Social Guarantees for Pensioners of the Armed Forces of the Russian Federation in the Territory of the Republic of Estonia<sup>136</sup>);
- 8) whose application for a residence permit is in grave public interest.

A temporary residence permit is issued with the validity of up to 5 years.<sup>137</sup>

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<sup>135</sup> Aliens Act § 118.

<sup>136</sup> RT II 1995, 46, 203.

<sup>137</sup> Aliens Act § 119 (1).

**Scenario 4: The Visa is a residence title in itself (i.e. no residence permit required)**

Applicable to Estonian case as Estonia issues for stays exceeding 3 months a long-stay or D type visa, which allows the alien to stay in Estonia up to 6 months within a 12 month period. As of 1 October 2010 a long-stay visa may issued for unlimited and unspecified purpose. Most long-stay visas in Estonia have been issued for short-term employment, which enables an employer to employ an alien for up to 6 months within a 12 month period.

In case of applying for a long-stay visa for short-term employment, it is the employer that has to first apply for registration of short-term employment.<sup>138</sup>

Short-term employment may be applied for:<sup>139</sup>

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

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<sup>138</sup> 14 July 2010 regulation of the Minister of the Interior No 24 "Procedure for registration of alien's short-term employment in Estonia and enactment of forms of the application for registering alien's short-term employment in Estonia" (RT I, 25.11.2010, 20) § 1.

<sup>139</sup> Aliens Act § 106 (1).

11) employment in seasonal works related to processing of agricultural products.

The employer employing an alien for short-term employment for a certain position is required to pay a salary, which has to be equal to or more than the amount specified in the Aliens Act. The Aliens Act specifies that the salary payable to the alien has to be equal to or more than the annual average gross monthly salary of the respective sector (of either the employer or employee depending on whether the employer is a legal or a natural person), but not lower than the product of the Estonian average annual salary recently published by Statistics Estonia and coefficient 1.24.<sup>140</sup>

Salary criterion in case of short-term employment only applies in case of registering short-term employment for a childminder; expert, advisor or a consultant; installer of equipment or skilled worker; or seasonal worker for dealing with processing of agricultural products.<sup>141</sup>

There have also been cases, altogether 58 of them, where aliens who have worked in Estonia under the short-term employment scheme apply for a temporary residence permit afterwards.<sup>142</sup>

### ***3.2.2 Challenges and success factors for facilitating legal immigration***

Below are noted positions and discussions that have appeared in the media on visa issues.

Already in 2005, the Estonian Prime Minister Mr. Andrus Ansip claimed that visa facilitation with Russia is beneficial for both parties.<sup>143</sup>

In 2007, the Estonian Minister of Foreign Affairs Mr. Urmas Paet stated that Estonia supports visa facilitation with Moldova and that it is important that visa facilitation process would continue also with regard to other countries of the Eastern Partnership.<sup>144</sup>

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<sup>140</sup> Aliens Act § 107 (1).

<sup>141</sup> Aliens Act § 107 (1).

<sup>142</sup> Kaska, V. (2010) "Temporary and Circular Migration: Empirical evidence, current policy practice and future options in Estonia", 30.

<sup>143</sup> "Ansip: Visa facilitation with Russia beneficial." Available online: <http://www.delfi.ee/news/paevauudised/est/ansip-viisalihtsustus-venemaaga-kasulik.d?id=11147659>.

<sup>144</sup> "Paet: Visa facilitation important to Moldova." Available online: <http://www.neljas.ee/est/?news=907331&category=6>.

In 2009, at the meeting of EU Ministers of Foreign Affairs with their colleagues from Ukraine, Georgia, Azerbaijan, Armenia, Moldova and Belarus, the Estonian Minister of Foreign Affairs Mr. Urmas Paet emphasized that importance of free trade agreements and visa facilitation.<sup>145</sup>

In 2010 the Estonian Minister of Foreign Affairs Mr. Urmas Paet said Estonia supports speedy signing of agreements on visa facilitation and readmission between EU and Georgia. The aim of these agreements is to develop cooperation between countries, through which it is possible to effectively organize return of persons who have entered the country or are staying in the country without a legal basis.<sup>146</sup>

These statements together with Estonian Government's actions of exempting citizens of Ukraine and Belarus from state fee when applying for a long-stay visa show that Estonia is very much interested in an in depth cooperation with Eastern Partnership countries and is very supportive of the visa facilitation mechanism.

Another topic that has been publicly discussed is visa freedom with Russia. Though many articles published on this topic suggest that on average Estonian politicians do not think it will happen in the near future since there are still conditions that need to be fulfilled.<sup>147</sup>

### **3.3 Visa procedures for the purpose of preventing irregular migration**

#### ***3.3.1 Prevention of irregular migration during visa issuing and monitoring process***

Visa requirements are one of the most efficient measures in preventing the arrival of unwanted persons in Estonia, as the data of aliens are checked when they are still in their country of origin. Thus it can be said that in 1990s the establishment of the visa system helped Estonia to more efficiently combat illegal immigration and the organised crime originating from Russia. The number of visa applications and refusals to grant a visa grew by 15.5% last

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<sup>145</sup> 8 December 2009 press release of the Ministry of Foreign Affairs. Available online: <http://www.vm.ee/?q=node/8763>.

<sup>146</sup> 14 April 2010 press release of the Ministry of Foreign Affairs. Available online: <http://www.vm.ee/?q=node/9276>.

<sup>147</sup> Ratt, K. (ed.) (2010) "Politicians: visa freedom with Russia cannot come soon". Available online: <http://www.postimees.ee/270716/poliitikud-viisavabadus-venemaaga-ei-saa-tulla-niipea/>; Pesur, V. (ed.) (2010) "Paet: there are three obstacles to visa freedom with Russia". Available online: <http://www.postimees.ee/223555/paet-viisavabadus-venemaaga-seisab-kolme-tingimuse-tagal/>.

year, with the total of 120,804 visa applications submitted to Estonian representative offices abroad and the Police and Border Guard Board. The number of refusals to grant a visa also increased considerably, the total of 32%. The main reasons for refusal included a prohibition on entry imposed on aliens, a danger to public order or national security and reasonable doubt as to the alleged objective of an alien's visit.<sup>148</sup>

Visa procedures have been described in full in chapter 3.1 of present study.

In 2010, the efficiency of the approval of issuing visas was improved due to the risk of illegal immigration. The approving of visas is an important measure in preventing, detecting and controlling the risks of illegal immigration. Before Estonia became a member of the Schengen area, one of the main methods used by illegal immigrants was to enter Estonia legally with a valid visa in an authentic travel document and in order to move on, illegal immigrants acquired forged documents or they remained illegally in Estonia for living and working purposes. After Estonia joined the common visa area the misuse of Schengen visas issued by Estonia for the purposes of illegal immigration has emerged as a new dangerous trend. That necessitated the introduction of more efficient follow-up control measures, which would ensure the prompt and timely assessment of internal security risks through constant monitoring of migration. Although follow-up control yields information about incidents ex post facto, it also provides inputs for planning further activities and making decisions. In 2010, the efficiency of cooperation between Estonian representative offices abroad and with neighbouring EU countries has been improved in respect of ex-ante and ex-post monitoring.<sup>149</sup>

The Police and Border Guard Board representatives at Estonian representative offices provide professional assistance during high-risk periods in St Petersburg, Moscow and Minsk in order to increase the efficiency of document verification in the processing of visas. The high quality level of the activities of border representatives on the eastern border is maintained, thanks to which the majority of border incidents between Estonia and Russia were resolved.<sup>150</sup>

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<sup>148</sup> Koort, Pardla, 29.

<sup>149</sup> Koort, Pardla, 30.

<sup>150</sup> Koort, Pardla, 38.

### ***3.3.2 Prevention of irregular migration through other measures during visa issuing***

Additionally to Schengen Information System, Estonia also uses National Register of Prohibitions on Entry<sup>151</sup> and other data bases at the disposal of authorities involved in the procedure of reviewing visa applications.

In order to improve the efficiency of border control, Immigration Liaison Officers (ILO) have been engaged in various third countries. A representative of the Latvian national border guard service represents Estonia in Russia, Belarus and Georgia.<sup>152</sup>

### ***3.3.3 Challenges and success factors for preventing irregular migration***

Estonia is still not a very attractive country of transit or destination. The year 2010 brought no significant changes in the countries of origin or in the number of illegal immigrants. Russia and other Commonwealth of Independent States countries still remain the main countries of origin. Preventing and combating illegal immigration means balanced ex-ante checking procedures in order to prevent the arrival of unwanted persons to Estonia, migration supervision in order to detect aliens illegally staying and working in Estonia, and a functioning system for organising their departure from Estonia.<sup>153</sup>

An important measure to compensate for the abolition of border control on the internal borders between the Schengen Member States is the registration of visitors in accommodation establishments.<sup>154</sup>

The most efficient measure in preventing and combating illegal immigration is cooperation with the countries of origin of illegal immigration. Thus, combating illegal immigration integrally entails expulsion measures, which require more effective implementation of readmission agreements. Estonia has initiated negotiations for the conclusion of bilateral readmission agreements with Armenia, Azerbaijan, Kazakhstan and Kosovo, and for the conclusion of protocols on the implementation of an EU readmission agreement with Serbia

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<sup>151</sup> 19 July 2007 Government of the Republic Regulation No 192 "Statutes of the National Register of Prohibitions on Entry". RT I, 17.12.2010, 24.

<sup>152</sup> Koort, Pardla, 38.

<sup>153</sup> Koort, Pardla, 34.

<sup>154</sup> Koort, Pardla, 35.

and Montenegro. In 2010, talks concerning the bilateral protocol on the implementation of a readmission agreement between the EU and the Russia also continued. Proposals to conclude an implementation protocol have also been made to Ukraine. Protocols on the implementation of the EU readmission agreement have already been signed with Moldova, Bosnia and Herzegovina and the Former Yugoslav Republic of Macedonia (FYROM). Estonia places great importance on the conclusion of EU readmission agreements also with Turkey, Pakistan, Morocco, Georgia and other countries of transit and origin.<sup>155</sup>

The integrated border management model is also an important tool to ensure the internal security in the EU Member States, particularly in the prevention and detection of illegal immigration and the related crimes and cross-border criminal activities. The integrated model comprises the legal bases for border control, the investigation of cross-border crimes and the four-tiered entry checks, as well as cooperation with Member States and institutions of the EU.<sup>156</sup>

Estonian Security Police Board has found that there was no critical upsurge in illegal immigration after Estonia joined the Schengen area. Still, data from 2009 suggests that the number of cases where third country nationals are trying to use illegal ways to get into Estonia with the purpose of moving on to other European countries have increased. Estonia has also seen an increased number of cases related to visa fraud from applicants in order to receive an Estonian visa.<sup>157</sup>

The Director-General of the Police and Border Guard Board Mr. Raivo Küüt said in an interview given in January 2011 that the pressure of illegal immigration to the external border of EU has increased, but Estonia is still a transit country from where immigrants wish to move to other European countries.<sup>158</sup>

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<sup>155</sup> *Ibid.*

<sup>156</sup> Koort, Pardla, 36.

<sup>157</sup> Security Police Board: Illegal immigration, fictitious visas. Available online: <http://www.kapo.ee/est/toovaldkonnad/terrorism/illegaalne-immigratsioon>.

<sup>158</sup> Tamm, M. (2011) "Küüt: the pressure of illegal immigration on the borders of the union has risen". Available online: <http://www.postimees.ee/374621/kuut-illegaalse-immigratsiooni-surve-euroliidu-piirile-on-kasvanud/>.

## 4. CO-OPERATION WITH THIRD COUNTRIES: CASE STUDIES

### **4.1 The facilitation of legal migration and/ or prevention of irregular migration: Case Study I**

#### ***4.1.1 Rationale for Case Study Selection***

The first choice for case study was Russia. The rationale behind such a choice is the amount of visas issued to Russian citizens. Russian citizens make up by far the biggest portion of visa applicants and Estonia's consular posts in St Petersburg and Moscow process the most visa applications. This phenomenon is explained by Russia being Estonia's neighbouring country.

#### ***4.1.2 Historical overview of relations with Russia***

Since year 2000 till 18 January 2009 Estonia had in place a simplified procedure for persons living near the border with Russia for application and issuance of visas, which has been described thoroughly in chapter 2.3 of present study.

#### ***4.1.3 Existence of agreements with Russia***

Currently there are two agreements, which are relevant for present study. These agreements are the Agreement between the European Community and the Russian Federation on readmission<sup>159</sup> and Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation<sup>160</sup>. Visa facilitation agreement has been applicable since 1 June 2007, thus the study covers both periods – with and without the agreement. No further agreements specifically focusing on legal or illegal immigration exist.

#### ***4.1.4 Any other measures***

No other measures are in place, which would be relevant for present study.

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<sup>159</sup> OJ L 129, 17.05.2007, 40–60.

<sup>160</sup> OJ L 129, 17.05.2007, 27–34.



#### 4.1.5 Statistics

Table 1. Visa applications submitted, rejected and visas issued to Russian citizens 2004–2010.

		TOTAL	Total A	Total C	Total D
2004	Issued	80874	0	80234	61
2004	Applied	81592	0	N/A	N/A
2004	Rejected	716	0	N/A	N/A
2005	Issued	86183	0	85107	103
2005	Applied	87625	0	N/A	N/A
2005	Rejected	1439	0	N/A	N/A
2006	Issued	104369	0	103127	170
2006	Applied	105493	0	N/A	N/A
2006	Rejected	1124	0	N/A	N/A
2007	Issued	87668	1	86738	163
2007	Applied	89324	N/A	N/A	N/A
2007	Rejected	1653	N/A	N/A	N/A
2008	Issued	78978	0	78672	176
2008	Applied	79875	0	N/A	N/A
2008	Rejected	892	0	N/A	N/A
2009	Issued	74882	0	74635	183
2009	Applied	75612	0	N/A	N/A
2009	Rejected	717	0	N/A	N/A
2010	Issued	90588	0	90488	97
2010	Applied	91634	0	N/A	N/A
2010	Rejected	1009	0	N/A	N/A

Table 2. Extension of period of stay of Russian citizens 2004–2010.

2004	2005	2006	2007	2008	2009	2010
121	143	152	119	88	88	64

Table 3. Revocation of visas issued to Russian citizens 2004–2010.

2004	2005	2006	2007	2008	2009	2010
231	219	308	580	810	773	1335

Table 4. Annulment of visas issued to Russian citizens 2004–2010.

2004	2005	2006	2007	2008	2009	2010
0	0	0	0	0	75	47

*Table 5. Refusal to issue temporary residence permit to Russian citizens 2007–2010 (by grounds).*

	2007	2008	2009	2010
The alien has committed a criminal offence for which he or she has been sentenced to imprisonment for a term of more than one year and his or her criminal record has neither expired nor been expunged, or the information concerning the punishment has not been expunged from the punishment register	1	6	4	1
Unjustified application	10	10	2	1
The alien does not comply with the requirements established in the Aliens Act	23	10	7	8
Active service of the armed forces of a foreign state or service as a professional member of the armed forces of a foreign state or the alien has been assigned to the reserve forces thereof or has retired therefrom	0	0	1	1
A prohibition on entry has been applied to the alien	1	1	1	1
The alien has been repeatedly punished pursuant to criminal procedure for an intentionally committed criminal offence	1	1	0	0
The alien does not reside in Estonia permanently	0	0	1	0

*Table 6. Refusals to extend temporary residence permit to Russian citizens 2007–2010 (by grounds).*

	2007	2008	2009	2010
The alien has committed a criminal offence for which he or she has been sentenced to imprisonment for a term of more than one year and his or her criminal record has neither expired nor been expunged, or the information concerning the punishment has not been expunged from the punishment register	0	1	0	1
Unjustified application	9	12	15	30
The alien does not comply with the requirements established in the Aliens Act	1	2	0	0
Family member of an alien who has served as a professional member of the armed forces of a foreign state and has been assigned to the reserve forces thereof	0	0	0	1
A prohibition on entry has been applied to the alien	1	1	1	1
The alien has been repeatedly punished	0	0	0	1

pursuant to criminal procedure for an intentionally committed criminal offence				
The alien does not reside in Estonia permanently	8	3	15	12
The basis or grounds for the issue of the residence permit have ceased to exist	2	1	1	2
The alien is (or there is good reason to believe that he or she is) employed by an intelligence or security service of a foreign state, or the alien has (or there is good reason to believe that he or she has) been employed by an intelligence or security service of a foreign state, and his or her age, rank or other circumstances do not preclude his or her conscription into service in the security forces or armed forces or other armed units of his or her country of nationality	0	0	0	1

*Table 7. Revocation of temporary residence permits issued to Russian citizens 2007–2010 (by grounds).*

	2004	2005	2006	2007	2008	2009	2010
General clause for revocation of a temporary residence permit, if a ground for refusal to issue or extend a temporary residence permit occurs, including when the basis or grounds for the issue of the residence permit have ceased to exist	2	8	7	9	13	11	15
Personal request from the alien	21	32	31	11	16	17	17
The alien is granted Estonian citizenship	5	35	19	15	12	12	6
The alien has died or is declared dead	368	538	437	341	280	276	225
Receipt of a long-term resident's residence permit (previously permanent residence permit) or new temporary residence permit	3	913	1078	506	211	249	517
If the alien stays outside Estonia for more than 183 days in a year and has not registered his or her absence	0	2	2	3	2	2	0
Expiration of the residence permit	0	4	1952	656	7	1	0
Other*	2402	5198	7552	1732	1546	1682	2522
<b>TOTAL</b>	<b>2801</b>	<b>6730</b>	<b>11078</b>	<b>3273</b>	<b>2087</b>	<b>2250</b>	<b>3302</b>

\* - also includes statistics when the information system revoked the residence permit due to its expiration

#### ***4.1.6 Findings of Case Study I***

Number of visa applications submitted by and visas issued to citizens of Russia has been pretty constant throughout the observed period, which is from 2004 to 2010. The same may be said about the visa refusal rate, which peaked in 2007 at 1.9%, but has come down since then to 1–1.1%. Average visa refusal rate for 2004–2010 has been 1.2%.

Visa facilitation agreement in force between EU and Russia has not had a big effect on the number of visas applied for and issued, even though it most likely eased visa travel for many people. This is easily explained by the number of Russian citizens living in Estonia.

On 1 January 2011 there were altogether 98 492 Russian citizens living in Estonia permanently on the basis of either temporary residence permit or long-term resident's residence permit, which made up 47% of all third-country nationals living in Estonia.<sup>161</sup>

At the same time, the visa facilitation agreement does not take into account specific character of different Member States. Specifically, beneficiaries from the visa facilitation agreement are only nationals of one or the other party who visit a national of the same party on the territory of the other party, e.g. Estonian citizen visiting another Estonian citizen on the territory of Russia. But Estonia has a large number of citizens whose family members are Russian citizens living in Russia, which means that in their case the visa facilitation agreement does not apply. In this case EU nationals are forced to comply with the regular visa application procedure and vice versa, though it can be noted that the process of applying for a visa is a lot simpler for Schengen visa than a visa to Russia. This also put into a context of Estonia's current more open visa policy.<sup>162</sup>

Applying for a Schengen visa with the application of the Visa Code by Member States has made the entire procedure very close or even more advantageous than the one provided under the visa facilitation agreement. Visa Code foresees plenty of advantages for a visa applicant compared to the visa facilitation agreement (e.g. waiver of visa fee). Thus, in Estonia's case it would be preferable to expand the categories of citizens covered by the visa facilitation

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<sup>161</sup> Data from the Police and Border Guard Board. Available online: <http://www.politsei.ee/dotAsset/163196.pdf>.

<sup>162</sup> Kaska, 208.

agreement in a way that would allow Estonian citizens to visit Russian citizens and vice versa on more preferential grounds.<sup>163</sup>

It may be concluded that despite large number of visa applicants there is not much visa misuse by Russian citizens and visa facilitation agreement signed between EU and Russia has eased the travel for Russian citizens who travel to Estonia to visit their family members here, and not so much for Estonian citizens wishing to visit their family members living in Russia.

## **4.2 The facilitation of legal migration and/ or prevention of irregular migration: Case Study II**

### ***4.2.1 Rationale for Case Study Selection***

The choice for the second case study was Georgia where Estonia opened a foreign representation in the capital Tbilisi in 2007. This also explains the rise in the number of visa applicants as of 2008, but also the rise of the visa refusal rate.

### ***4.2.2 Historical overview of relations with Georgia***

As noted above, Estonia opened its foreign representation in Georgia in 2007. Prior to that Georgian citizens mostly applied for visas to Estonia through Estonia's foreign representation either in Kiev (Ukraine) or Moscow (Russia). A visa facilitation agreement is in place between EU and Georgia, which was signed on 17 June 2010.<sup>164</sup>

Due to Georgia exempting EU citizens (including Estonian citizens) from visa requirement, Estonia decided to in 2005 to facilitate travel for Georgian citizens by exempting them from visa fee upon application for transit and single-entry visas as of 1 September 2005<sup>165</sup> (until re-establishment of visa requirement for Estonian citizens).

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<sup>163</sup> Kaska, 209.

<sup>164</sup> OJ L 52, 25.02.2011, 33–44.

<sup>165</sup> Agreement between Republic of Estonia and Georgia for temporary exemption of visa application fee at foreign representations. Diplomatic notes. RT II 2005, 22, 75.

### 4.2.3 Existence of agreements with Georgia

Visa facilitation agreement between EU and Georgia is relevant to the present study, which has been applicable as of 1 March 2011 and thus falling into period that is not covered by present study. Visa facilitation agreement is complemented by the agreement between EU and Georgia on the readmission of persons residing without authorisation.<sup>166</sup> No other agreements may be noted for the purposes of present study.

### 4.2.4 Any other measures

No other measures are in place, which would be relevant for present study.

### 4.2.5 Statistics

Table 1. Visa applications submitted, rejected and visas issued to Georgian citizens 2004–2010.

		TOTAL	Total A	Total C	Total D
2004	Issued	196	0	195	0
2004	Applied	204	N/A	N/A	N/A
2004	Rejected	8	N/A	N/A	N/A
2005	Issued	370	0	370	0
2005	Applied	383	N/A	N/A	N/A
2005	Rejected	11	N/A	N/A	N/A
2006	Issued	472	0	468	3
2006	Applied	478	N/A	N/A	N/A
2006	Rejected	6	N/A	N/A	N/A
2007	Issued	490	0	483	7
2007	Applied	508	N/A	N/A	N/A
2007	Rejected	17	N/A	N/A	N/A
2008	Issued	1374	0	1347	27
2008	Applied	1770	N/A	N/A	N/A
2008	Rejected	396	N/A	N/A	N/A
2009	Issued	836	0	819	16
2009	Applied	1212	N/A	N/A	N/A
2009	Rejected	375	N/A	N/A	N/A

<sup>166</sup> OJ L 52, 25.02.2011, 45–65.

2010	Issued	1457	0	1440	17
2010	Applied	2056	N/A	N/A	N/A
2010	Rejected	597	N/A	N/A	N/A

*Table 2. Extension of period of stay of Georgian citizens 2004–2010.*

2004	2005	2006	2007	2008	2009	2010
1	5	0	3	34	8	5

*Table 3. Revocation of visas issued to Georgian citizens 2004–2010.*

2004	2005	2006	2007	2008	2009	2010
0	0	1	0	16	16	7

*Table 5. Refusal to issue temporary residence permit to Georgian citizens 2007–2010 (by grounds).*

	2007	2008	2009	2010
The alien does not comply with the requirements established in the Aliens Act	0	0	2	2

*Table 6. Refusals to extend temporary residence permit to Georgian citizens 2007–2010 (by grounds).*

	2007	2008	2009	2010
The alien does not comply with the requirements established in the Aliens Act	0	0	0	1
The alien does not reside in Estonia permanently	0	1	0	0

*Table 7. Revocation of temporary residence permits issued to Georgian citizens 2007–2010 (by grounds).*

	2004	2005	2006	2007	2008	2009	2010
General clause for revocation of a temporary residence permit, if a ground for refusal to issue or extend a temporary residence permit occurs, including when the basis or grounds for the issue of the residence permit have ceased to exist	0	1	0	0	0	1	5
Personal request from the alien	0	0	0	0	3	3	0
The alien is granted Estonian citizenship	0	0	0	0	0	0	0

The alien has died or is declared dead	0	0	0	0	0	0	0
Receipt of a long-term resident's residence permit (previously permanent residence permit) or new temporary residence permit	0	3	9	6	8	2	5
If the alien stays outside Estonia for more than 183 days in a year and has not registered his or her absence	0	0	0	0	0	0	0
Expiration of the residence permit	0	0	6	0	0	0	1
Other*	69	36	34	39	45	58	94
<b>TOTAL</b>	<b>69</b>	<b>40</b>	<b>49</b>	<b>45</b>	<b>56</b>	<b>64</b>	<b>105</b>

\* - also includes statistics when the information system revoked the residence permit due to its expiration

#### ***4.2.6 Findings of Case Study II***

Opening a foreign representation in 2007 in Georgian capital Tbilisi has eased applying for a visa for Georgian citizens. This has very clearly manifested in the increase of visa applications from 508 in 2007 to 1770 in 2008. In 2010 there were already 2056 visa applications from Georgian citizens.

At the same time it should be noted that since then the visa refusal rate has increased from 3.35% in 2007 to 22.4% in 2008 and 31% in 2009. In 2010 the visa refusal rate showed a slight decrease after landing at 29%, though still being quite high. The average visa refusal rate during the period reviewed in present study was 13.4%.

Following the trend with visa refusal the number of visas issued to Georgian citizens and later revoked was quite high in 2008 and 2009, it has come down in 2010.

On 1 January 2011 there were 230 Georgian citizens living in Estonia on the basis of either temporary residence permit or long-term resident's residence permit, which makes up about 0.1% of the total of third-country nationals living in Estonia on the basis of a residence permit.<sup>167</sup> This number has remained quite stable throughout the years. Thus, opening of a foreign representation in Georgia has not increased the number of Georgian citizens applying for a residence permit to Estonia.

<sup>167</sup> Data from the Police and Border Guard Board. Available online: <http://www.politsei.ee/dotAsset/163196.pdf>.



## 5. EFFECTS OF EU POLICY AND LEGISLATION

Enforced visa facilitation agreements and entry into force of the Visa Code brought on a [general] strive for a more open visa policy in Estonia, which has seen favouring *bona fide* travellers (visa applicants with prior positive visa history) by issuing them visas with a longer validity (5 years).<sup>168</sup> The strive for a more open visa policy also saw the amendment of the visa procedure by repealing the visa invitation.

Full application of the Visa Code also brought on changes in Estonia's visa policy.

Estonia has elaborated a procedure to guarantee the applicant's right to appeal, since prior to application of the respective provisions of the Visa Code, Estonia neither gave out any reasons that brought on the visa refusal nor allowed for a visa refusal to be appealed.

Estonia has also clearly made good use of the representation tool, which has been more thoroughly regulated in the Visa Code.

Regulation (EU) No 265/2010 of the European Parliament and of the Council amending the Convention Implementing of Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa<sup>169</sup> has also influenced Estonia's visa policy. Prior to 5 April 2010 Article 18 of the Schengen Convention<sup>170</sup> enabled holders of long-stay visas to "transit through the territories of the other Contracting Parties in order to reach the territory of the Contracting Party, which issued the visa". With the application of the abovementioned regulation all limitations to movement on the basis of a long-stay visa were lifted and third-country nationals in possession of a long-stay visa have better possibilities of traveling within the Schengen area and also to and from their country of residence.

Also, as noted in previous chapters of present study, Estonia's politicians have strong support for agreements on visa facilitation and readmission signed with third countries, especially with countries of Eastern Partnership.

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<sup>168</sup> Kaska, 199.

<sup>169</sup> OJ L 85, 31.03.2010, 1–4.

<sup>170</sup> The Convention Implementing the Schengen Agreement of 14 June 1985 between the Governments of States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders. OJ L 239, 22.09.2000, 19–62.

## 6. DATA AND EMPIRICAL EVIDENCE ON VISAS ISSUED BY AND IMMIGRATION TO ESTONIA

In present chapter of the study are displayed the data according to the specifications for the study. Statistics cover the period from 2004, when Estonia became a Member State of the EU, until 2010. Though in some cases statistics are provided for a shorter period, which is due to the fact that earlier numbers were not available.

The numbering of the tables also follows the specifications and in cases where data is missing the tables have not been included.

**Table 1: Total visas by type**

Year	Activity	Total A	Total C	Total D	D - less than 6 months	D - 6 to 12 months	D - more than 12 months
2004	Issued	0	88 121	251	N/A	N/A	N/A
2004	Applied	0	90 022	N/A	N/A	N/A	N/A
2004	Rejected	0	1 525	N/A	N/A	N/A	N/A
2005	Issued	1	101 144	384	N/A	N/A	N/A
2005	Applied	1	103 893	N/A	N/A	N/A	N/A
2005	Rejected	0	2 463	N/A	N/A	N/A	N/A
2006	Issued	0	124 973	518	N/A	N/A	N/A
2006	Applied	0	127 449	N/A	N/A	N/A	N/A
2006	Rejected	0	2 036	N/A	N/A	N/A	N/A
2007	Issued	1	108 009	665	N/A	N/A	N/A
2007	Applied	1	111 394	N/A	N/A	N/A	N/A
2007	Rejected	0	2 530	N/A	N/A	N/A	N/A
2008	Issued	0	97 208	728	N/A	N/A	N/A
2008	Applied	4	100 565	N/A	N/A	N/A	N/A
2008	Rejected	4	2 133	N/A	N/A	N/A	N/A
2009	Issued	0	91 803	405	N/A	N/A	N/A
2009	Applied	2	95 571	N/A	N/A	N/A	N/A
2009	Rejected	2	2 024	N/A	N/A	N/A	N/A
2010	Issued	0	116 855	316	N/A	N/A	N/A
2010	Applied	6	121 069	N/A	N/A	N/A	N/A
2010	Rejected	6	3 110	N/A	N/A	N/A	N/A

Source: Estonian Ministry of the Interior

**Tables 2: D visas issued by reason and citizenship**

**Table 2.2: D visas issued by reason and main 10 countries of citizenship (extra EU - 27)**

	Position of the country	Name of the country	Total
2004	1st main	Russia	61
2004	2nd main	United States of America	27
2004	3rd main	Ukraine	14
2004	4th main	China	13
2004	5th main	Belarus	10
2004	6th main	Indonesia	10
2004	7th main	Turkey	8
2004	8th main	Pakistan	6
2004	9th main	South Africa	5
2004	10th main	Iran	3
2005	1st main	Russia	103
2005	2nd main	Ukraine	67
2005	3rd main	United States of America	49
2005	4th main	Turkey	12
2005	5th main	Indonesia	12
2005	6th main	Belarus	11
2005	7th main	China	9
2005	8th main	Mexico	4
2005	9th main	Egypt	4
2005	10th main	India	3
2006	1st main	Russia	170
2006	2nd main	Ukraine	100
2006	3rd main	United States of America	53
2006	4th main	China	17
2006	5th main	Turkey	16
2006	6th main	Indonesia	12
2006	7th main	Moldova	11
2006	8th main	South Africa	9
2006	9th main	Egypt	7

2006	10th main	Belarus	7
2007	1st main	Ukraine	201
2007	2nd main	Russia	163
2007	3rd main	United States of America	50
2007	4th main	Moldova	43
2007	5th main	China	19
2007	6th main	Belarus	13
2007	7th main	Vietnam	11
2007	8th main	Iran	10
2007	9th main	India	9
2007	10th main	Indonesia	9
2008	1st main	Ukraine	258
2008	2nd main	Russia	176
2008	3rd main	United States of America	89
2008	4th main	Moldova	34
2008	5th main	Georgia	27
2008	6th main	China	22
2008	7th main	Turkey	13
2008	8th main	Belarus	13
2008	9th main	Philippines	13
2008	10th main	Belarus	13
2009	1st main	Russia	183
2009	2nd main	Ukraine	66
2009	3rd main	United States of America	39
2009	4th main	Georgia	16
2009	5th main	China	11
2009	6th main	Turkey	11
2009	7th main	Belarus	10
2009	8th main	Australia	5
2009	9th main	FYROM	4
2009	10th main	Japan	3
2010	1st main	Russia	97
2010	2nd main	Ukraine	62
2010	3rd main	United States of America	43
2010	4th main	Georgia	17

2010	5th main	China	15
2010	6th main	Belarus	14
2010	7th main	India	12
2010	8th main	Turkey	11
2010	9th main	Australia	9
2010	10th main	Japan	8

Source: Estonian Ministry of the Interior

**Tables 3: Residence permit by reason and citizenship**

**Table 3.1: Residence permit by reason**

Year	Total	Education	Employment	Family	Other reasons: Total	Other reasons: Residence only	Other reason: national category not elsewhere specified. Please specify: * <u>on the basis of an international agreement</u>
2004	3 438	287	531	766	1 854	130	1 724
2005	4 086	202	411	736	2 737	305	2 432
2006	4 370	207	565	1 185	2 413	50	2 363
2007	4 065	286	733	1 572	1 474	38	1 436
2008	3 868	353	911	1 380	1 224	87	1 137
2009	3 769	392	1 063	1 136	1 178	128	1 050
2010	3 551	459	941	1 063	1 088	112	976

Source: Police and Border Guard Board

**Table 3.2: Residence permit by reason and 10 main countries of citizenship (extra EU - 27)**

Year	Position of the country	Name of the country	Total	Education	Employment	Family	Other reasons: Total	Other reasons: Residence only	Other reason: national category not elsewhere specified. Please specify: * <u>on the basis of an international agreement</u>
2004	1st main	Undetermined citizenship	2 469	N/A	N/A	N/A	N/A	N/A	N/A

2004	2nd main	Russia	2171	N/A	N/A	N/A	N/A	N/A	N/A
2004	3rd main	Ukraine	500	N/A	N/A	N/A	N/A	N/A	N/A
2004	4th main	USA	205	N/A	N/A	N/A	N/A	N/A	N/A
2004	5th main	China	122	N/A	N/A	N/A	N/A	N/A	N/A
2004	6th main	Belarus	89	N/A	N/A	N/A	N/A	N/A	N/A
2004	7th main	Armenia	55	N/A	N/A	N/A	N/A	N/A	N/A
2004	8th main	India	52	N/A	N/A	N/A	N/A	N/A	N/A
2004	9th main	Azerbaijan	44	N/A	N/A	N/A	N/A	N/A	N/A
2004	10th main	Georgia	38	N/A	N/A	N/A	N/A	N/A	N/A
2005	1st main	Undetermined citizenship	2 294	N/A	N/A	N/A	N/A	N/A	N/A
2005	2nd main	Russia	1 005	N/A	N/A	N/A	N/A	N/A	N/A
2005	3rd main	Ukraine	315	N/A	N/A	N/A	N/A	N/A	N/A
2005	4th main	USA	146	N/A	N/A	N/A	N/A	N/A	N/A
2005	5th main	China	84	N/A	N/A	N/A	N/A	N/A	N/A
2005	6th main	India	36	N/A	N/A	N/A	N/A	N/A	N/A
2005	7th main	Belarus	28	N/A	N/A	N/A	N/A	N/A	N/A
2005	8th main	Armenia	23	N/A	N/A	N/A	N/A	N/A	N/A
2005	9th main	Georgia	20	N/A	N/A	N/A	N/A	N/A	N/A
2005	10th main	Azerbaijan	12	N/A	N/A	N/A	N/A	N/A	N/A
2006	1st main	Undetermined citizenship	2 218	N/A	N/A	N/A	N/A	N/A	N/A
2006	2nd main	Russia	1242	N/A	N/A	N/A	N/A	N/A	N/A
2006	3rd main	Ukraine	399	N/A	N/A	N/A	N/A	N/A	N/A
2006	4th main	USA	147	N/A	N/A	N/A	N/A	N/A	N/A
2006	5th main	China	60	N/A	N/A	N/A	N/A	N/A	N/A
2006	6th main	Belarus	46	N/A	N/A	N/A	N/A	N/A	N/A
2006	7th main	India	33	N/A	N/A	N/A	N/A	N/A	N/A
2006	8th main	Georgia	22	N/A	N/A	N/A	N/A	N/A	N/A
2006	9th main	Armenia	13	N/A	N/A	N/A	N/A	N/A	N/A
2006	10th main	Azerbaijan	13	N/A	N/A	N/A	N/A	N/A	N/A
2007	1st main	Undetermined citizenship	1 662	0	3	526	1 133		1 133
2007	2nd main	Russia	1 200	66	129	725	280	22	258
2007	3rd main	Ukraine	538	22	380	118	18		18
2007	4th main	USA	149	24	79	32	14	13	1
2007	5th main	China	78	45	28	4	1		1
2007	6th main	Belarus	63	10	16	32	5		5
2007	7th main	Turkey	55	35	5	15	0		
2007	8th main	Georgia	35	13	7	10	5		5
2007	9th main	India	35	5	13	16	1		1
2007	10th main	Armenia	26	0	10	14	2		2

2008	1st main	Undetermined citizenship	1 270	4	3	368	895	1	894
2008	2nd main	Russia	1 088	52	140	653	243	61	182
2008	3rd main	Ukraine	670	20	492	125	33	4	29
2008	4th main	USA	137	27	67	33	10	8	2
2008	5th main	China	126	90	30	6	0		
2008	6th main	Belarus	89	13	19	39	18	4	14
2008	7th main	Turkey	78	55	7	16	0		
2008	8th main	Georgia	56	17	26	11	2		2
2008	9th main	Armenia	40	1	13	23	3		3
2008	10th main	Moldova	32	7	13	10	2		2
2009	1st main	Russia	1 109	57	241	558	253	86	167
2009	2nd main	Undetermined citizenship	1 096	1	2	243	850		850
2009	3rd main	Ukraine	595	27	444	107	17	4	3
2009	4th main	USA	189	37	77	53	22	22	
2009	5th main	China	165	50	114	1	0		
2009	6th main	Turkey	99	75	8	16	0		
2009	7th main	Georgia	66	45	11	7	3		3
2009	8th main	Belarus	65	1	26	34	4	1	3
2009	9th main	Israel	33	0	19	10	4	3	1
2009	10th main	India	27	4	21	1	1	1	
2010	1st main	Russia	1 264	92	365	588	219	76	143
2010	2nd main	Undetermined citizenship	982	2	4	166	810		810
2010	3rd main	Ukraine	384	25	244	103	12	5	7
2010	4th main	USA	169	35	79	37	18	16	2
2010	5th main	Georgia	98	52	30	14	2		2
2010	6th main	Turkey	94	79	7	8	0		
2010	7th main	China	87	38	39	10	0		
2010	8th main	Belarus	80	5	42	28	5	5	
2010	9th main	India	42	6	20	13	3		3
2010	10th main	Israel	33	0	18	12	3	3	

Source: Police and Border Guard Board

**Tables 5: C visas issued by consular posts and by reason**

**Table 5.2: C visas issued by reason and 10 main countries of consular posts (extra EU - 27)**

Year	Position of the consular post	Name of the consular post	Total
2004	1st main	St Petersburg	37378
2004	2nd main	Moscow	29800
2004	3rd main	Kiev	5491
2004	4th main	Pskov	4950
2004	5th main	Minsk	3364
2004	6th main	Ankara	404
2004	7th main	Beijing	201
2004	8th main	New York	180
2004	9th main	New Delhi	143
2004	10th main	Toronto	114
2005	1st main	St Petersburg	43470
2005	2nd main	Moscow	34542
2005	3rd main	Kiev	6269
2005	4th main	Pskov	5667
2005	5th main	Minsk	3398
2005	6th main	Ankara	539
2005	7th main	New York	219
2005	8th main	Beijing	215
2005	9th main	Tokyo	44
2005	10th main	New Delhi	30
2006	1st main	St Petersburg	52843
2006	2nd main	Moscow	42141
2006	3rd main	Kiev	8094
2006	4th main	Pskov	6533
2006	5th main	Minsk	4363
2006	6th main	Ankara	1518
2006	7th main	Beijing	589
2006	8th main	New York	386
2006	9th main	New Delhi	190
2006	10th main	Tokyo	154
2007	1st main	St Petersburg	44699
2007	2nd main	Moscow	33253
2007	3rd main	Kiev	8031
2007	4th main	Pskov	7063
2007	5th main	Minsk	4752
2007	6th main	Ankara	1610
2007	7th main	Beijing	514
2007	8th main	New York	481



2007	9th main	New Delhi	270
2007	10th main	Tokyo	109
2008	1st main	St Petersburg	37761
2008	2nd main	Moscow	31742
2008	3rd main	Pskov	8191
2008	4th main	Kiev	7993
2008	5th main	Minsk	7605
2008	6th main	Tbilisi	1382
2008	7th main	Ankara	782
2008	8th main	Beijing	273
2008	9th main	New York	121
2008	10th main	New Delhi	31
2009	1st main	St Petersburg	34315
2009	2nd main	Moscow	30004
2009	3rd main	Minsk	9457
2009	4th main	Pskov	9027
2009	5th main	Kiev	6650
2009	6th main	Tbilisi	835
2009	7th main	Beijing	536
2009	8th main	Ankara	291
2009	9th main	New York	109
2009	10th main	Ottawa	11
2010	1st main	St Petersburg	40648
2010	2nd main	Moscow	36130
2010	3rd main	Minsk	14652
2010	4th main	Pskov	13133
2010	5th main	Kiev	8811
2010	6th main	Tbilisi	1498
2010	7th main	Beijing	574
2010	8th main	Ankara	284
2010	9th main	New York	81
2010	10th main	Cairo	38

Source: Estonian Ministry of the Interior

**Table 10: Third country nationals refused entry at the external borders**

**Table 10.1: Overall trend by reason**

	2004	2005	2006	2007	2008	2009	2010
Total number of refusals	1 975	1 924	2 655	3 091	2 326	916	2 502

Source: Police and Border Guard Board

**Table 10.2: Main 10 countries of citizenship**

Year	Position of the country of citizenship	Name of the country of citizenship	Total
2004	1st main	India	507
2004	2nd main	Unknown	242
2004	3rd main	Latvia	212
2004	4th main	Russia	210
2004	5th main	Philippines	127
2004	6th main	Myanmar	124
2004	7th main	N/A	N/A
2004	8th main	N/A	N/A
2004	9th main	N/A	N/A
2004	10th main	N/A	N/A
2005	1st main	India	738
2005	2nd main	Russia	290
2005	3rd main	Philippines	227
2005	4th main	Unknown	120
2005	5th main	China	81
2005	6th main	Myanmar	69
2005	7th main	Pakistan	54
2005	8th main	Cape Verde	35
2005	9th main	Ukraine	32
2005	10th main	Indonesia	29
2006	1st main	India	1 204
2006	2nd main	Philippines	395
2006	3rd main	Russia	308
2006	4th main	China	223
2006	5th main	Ukraine	81
2006	6th main	Unknown	76
2006	7th main	Myanmar	66
2006	8th main	Pakistan	55
2006	9th main	Indonesia	40
2006	10th main	Bangladesh	35
2007	1st main	India	1 739
2007	2nd main	Philippines	349
2007	3rd main	Russia	331
2007	4th main	Myanmar	119
2007	5th main	Pakistan	99
2007	6th main	China	82
2007	7th main	Unknown	67
2007	8th main	Turkey	55
2007	9th main	Ukraine	54

2007	10th main	Bangladesh	31
2008	1st main	India	1 042
2008	2nd main	Philippines	523
2008	3rd main	Russia	374
2008	4th main	Pakistan	92
2008	5th main	Myanmar	49
2008	6th main	Turkey	45
2008	7th main	China	32
2008	8th main	Cape Verde	29
2008	9th main	Ukraine	21
2008	10th main	Bangladesh	20
2009	1st main	Russia	371
2009	2nd main	Philippines	333
2009	3rd main	Myanmar	43
2009	4th main	Turkey	42
2009	5th main	Ukraine	35
2009	6th main	Pakistan	19
2009	7th main	India	17
2009	8th main	Belarus	7
2009	9th main	Turkmenistan	6
2009	10th main	Cape Verde	6
2010	1st main	Russia	1 703
2010	2nd main	Philippines	456
2010	3rd main	Myanmar	79
2010	4th main	Cape Verde	57
2010	5th main	India	50
2010	6th main	Ukraine	32
2010	7th main	Turkey	29
2010	8th main	Egypt	21
2010	9th main	Malaysia	15
2010	10th main	Cuba	9

Source: Police and Border Guard Board

**Table 11: Third country nationals refused entry at the external borders due to the absence of a valid visa or residence permit**

**Table 11.1: Overall trend**

	2004	2005	2006	2007	2008	2009	2010
Total number of refusals due to the absence of a valid visa or residence permit	N/A	N/A	N/A	N/A	1588	631	1361

Source: Police and Border Guard Board

**Table 11.2: Main 10 countries of citizenship**

	Position of the country of citizenship	Name of the country of citizenship	Total
2008	1st main	India	615
2008	2nd main	Russia	351
2008	3rd main	Philippines	348
2008	4th main	Pakistan	74
2008	5th main	Myanmar	42
2008	6th main	China	27
2008	7th main	Turkey	22
2008	8th main	Cape Verde	19
2008	9th main	Ukraine	18
2008	10th main	Montenegro	16
2009	1st main	Russia	305
2009	2nd main	Philippines	205
2009	3rd main	Myanmar	35
2009	4th main	Ukraine	27
2009	5th main	Pakistan	19
2009	6th main	India	11
2009	7th main	Turkey	7
2009	8th main	Egypt	5
2009	9th main	Cape Verde	4
2009	10th main	Belarus/ Algeria/ Montenegro	2
2010	1st main	Russia	690
2010	2nd main	Philippines	408
2010	3rd main	Myanmar	58
2010	4th main	Cape Verde	53
2010	5th main	India	46
2010	6th main	Ukraine	26
2010	7th main	Egypt	20
2010	8th main	Malaysia	15
2010	9th main	Cuba	9
2010	10th main	Turkey	7

Source: Police and Border Guard Board

**Table 12: Third country nationals refused entry at the external borders due to the presentation of a false visa or residence permit**

**Table 12.1: Overall trend**

	2004	2005	2006	2007	2008	2009	2010
Total number of refusals due to the presentation of a false visa or residence permit	N/A	N/A	N/A	N/A	13	5	4

Source: Police and Border Guard Board

**Table 12.2: Main 10 of citizenship**

	Position of the country of citizenship	Name of the country of citizenship	Total
2008	1st main	China	5
2008	2nd main	Russia	2
2008	3rd main	Moldova	2
2008	4th main	Dominican Republic	2
2008	5th main	India	1
2008	6th main	Colombia	1
2008	7th main	N/A	N/A
2008	8th main	N/A	N/A
2008	9th main	N/A	N/A
2008	10th main	N/A	N/A
2009	1st main	Ivory Coast	2
2009	2nd main	Russia	2
2009	3rd main	Dominican Republic	1
2009	4th main	N/A	N/A
2009	5th main	N/A	N/A
2009	6th main	N/A	N/A
2009	7th main	N/A	N/A
2009	8th main	N/A	N/A
2009	9th main	N/A	N/A
2009	10th main	N/A	N/A
2010	1st main	China	1
2010	2nd main	Egypt	1

2010	3rd main	Ghana	1
2010	4th main	Pakistan	1
2010	5th main	N/A	N/A
2010	6th main	N/A	N/A
2010	7th main	N/A	N/A
2010	8th main	N/A	N/A
2010	9th main	N/A	N/A
2010	10th main	N/A	N/A

Source: Police and Border Guard Board

**Table 13: Third country nationals refused entry at the external borders due to the fact that the person already stayed 3 months in a 6-months period**

**Table 13.1: Overall trend**

	2004	2005	2006	2007	2008	2009	2010
Total number of refusals due to the fact that the person already stayed 3 months in a 6-months period	N/A	N/A	N/A	N/A	3	27	19

Source: Police and Border Guard Board

**Table 13.2: Main 10 countries of citizenship**

	Position of the country of citizenship	Name of the country of citizenship	Total
2008	1st main	USA	2
2008	2nd main	Ukraine	1
2008	3rd main	N/A	N/A
2008	4th main	N/A	N/A
2008	5th main	N/A	N/A
2008	6th main	N/A	N/A
2008	7th main	N/A	N/A
2008	8th main	N/A	N/A
2008	9th main	N/A	N/A
2008	10th main	N/A	N/A
2009	1st main	Russia	23
2009	2nd main	Belarus	4

2009	3rd main	N/A	N/A
2009	4th main	N/A	N/A
2009	5th main	N/A	N/A
2009	6th main	N/A	N/A
2009	7th main	N/A	N/A
2009	8th main	N/A	N/A
2009	9th main	N/A	N/A
2009	10th main	N/A	N/A
2010	1st main	Russia	16
2010	2nd main	Ukraine	3
2010	3rd main	N/A	N/A
2010	4th main	N/A	N/A
2010	5th main	N/A	N/A
2010	6th main	N/A	N/A
2010	7th main	N/A	N/A
2010	8th main	N/A	N/A
2010	9th main	N/A	N/A
2010	10th main	N/A	N/A

Source: Police and Border Guard Board

**Table 14: Third country nationals found to be illegally present**

**Table 14.1: Overall trend**

	2004	2005	2006	2007	2008	2009	2010
Total number of third-country nationals found to be illegally present	1 570	2 703	2 069	1 460	1 058	891	893

Source: Police and Border Guard Board

**Table 14.2: Main 10 countries of citizenship**

	Position of the country of citizenship	Name of the country of citizenship	Total
2004	1st main	Undetermined citizenship	1 109
2004	2nd main	Russia	338
2004	3rd main	Ukraine	41
2004	4th main	Belarus	15

2004	5th main	Georgia	15
2004	6th main	Armenia	7
2004	7th main	USA	6
2004	8th main	Moldova	6
2004	9th main	Azerbaijan	5
2004	10th main	India/ Latvia/ Turkey/ Uzbekistan	3
2005	1st main	Undetermined citizenship	2 030
2005	2nd main	Russia	587
2005	3rd main	Ukraine	38
2005	4th main	Belarus	14
2005	5th main	Armenia	7
2005	6th main	Kazakhstan	6
2005	7th main	Georgia	5
2005	8th main	Azerbaijan	3
2005	9th main	USA	2
2005	10th main	Moldova	2
2006	1st main	Undetermined citizenship	1 440
2006	2nd main	Russia	488
2006	3rd main	Ukraine	47
2006	4th main	Belarus	21
2006	5th main	Moldova	15
2006	6th main	Georgia	14
2006	7th main	Kazakhstan	14
2006	8th main	Armenia	7
2006	9th main	USA	5
2006	10th main	Azerbaijan	3
2007	1st main	Undetermined citizenship	878
2007	2nd main	Russia	423
2007	3rd main	Ukraine	66
2007	4th main	Belarus	23
2007	5th main	China	10
2007	6th main	Armenia	9
2007	7th main	Azerbaijan	9
2007	8th main	Georgia	8
2007	9th main	Kazakhstan	8
2007	10th main	Moldova	6



2008	1st main	Undetermined citizenship	624
2008	2nd main	Russia	312
2008	3rd main	Ukraine	46
2008	4th main	Belarus	16
2008	5th main	Georgia	9
2008	6th main	Armenia	6
2008	7th main	Azerbaijan	6
2008	8th main	USA	5
2008	9th main	Moldova	5
2008	10th main	Lithuania	3
2009	1st main	Undetermined citizenship	569
2009	2nd main	Russia	197
2009	3rd main	Afghanistan	17
2009	4th main	Ukraine	14
2009	5th main	Belarus	11
2009	6th main	Latvia	10
2009	7th main	Philippines	8
2009	8th main	USA	7
2009	9th main	Azerbaijan	6
2009	10th main	Lithuania	6
2010	1st main	Undetermined citizenship	559
2010	2nd main	Russia	226
2010	3rd main	Ukraine	19
2010	4th main	Georgia	14
2010	5th main	Latvia	9
2010	6th main	Belarus	7
2010	7th main	Armenia	6
2010	8th main	Lithuania	6
2010	9th main	Azerbaijan	5
2010	10th main	Canada	4

Source: Police and Border Guard Board

## 7. CONCLUSIONS

Present study is an overview on how visa policy is used as a migration channel in Estonia. The aim of the study is to analyse the nexus between visa policy and migration management and control, including tackling irregular migration. In the framework of the study two case studies were carried out. Third countries observed in the case studies were Russia and Georgia.

Estonia's visa policy has remained quite stable in its core principles, though it has been strongly influenced by the changes brought along with the European *acquis* – Visa Code, Schengen Borders Code etc.

Enforced visa facilitation agreements, which Estonian politicians have strong support for, and entry into force of the Visa Code brought on a general strive for a more open visa policy in Estonia, which has seen favouring *bona fide* travellers by issuing them visas with a longer validity (5 years). This strive for a more open visa policy also saw the amendment of the visa procedure by repealing the visa invitation.

Full application of the Visa Code also brought on changes in Estonia's visa policy. Estonia has elaborated a procedure to guarantee the applicant's right to appeal, since prior to application of the respective provisions of the Visa Code, Estonia neither gave out any reasons that brought on the visa refusal nor allowed for a visa refusal to be appealed.

The movement possibilities of third-country nationals within the Schengen area have also been widened by the regulation that extended the principle of equivalence between residence permits and short-stay visas issued by the Member States fully implementing the Schengen *acquis* to long-stay visas.

Estonia has also clearly made good use of the representation tool, which has been more thoroughly regulated in the Visa Code.

All these aspects have not had a very large effect either on the visa statistics with the visas applied for, issued and rejected or residence permit statistics, which have remained pretty stable. Throughout the period reviewed in present study the busiest foreign representations in

terms of visa activity have been consular posts in St Petersburg and Moscow, which is not surprising as Russian citizens make up the largest number of visa applicants.

Refusals of entry made a surprising decrease in 2009, but have come back up 2010 to their usual number. Most third-country nationals (*ca* 55%) are refused entry due to the absence of a valid visa or residence permit. This was due to the fact that as of 26 February 2010 the Russian Federation ended its membership in the International Labour Organisation (ILO) Convention C.108 “Seafarer’s Identity Document Convention” and ratified the ILO Convention C.185 under which the specifications deriving from the ILO Convention C.108 no longer extend to Russian seafarers upon entry to the territory of Estonia, including as a transit passenger. A foreign passport with a visa is required for travelling through Estonia in case of transit. Seafarers do not present a travel document containing a visa upon their arrival at the state border and Estonia has no grounds for allowing them to enter its territory.<sup>171</sup>

The number of refusals of entry at the external border due to the presentation of a false visa or a residence permit has decreased significantly after the first year of Estonia acceding to the Schengen area. That first year might be viewed as a trial period when third-country nationals with false visas or residence permits were testing the strength of Estonia’s border control.

The number of third-country nationals found illegally present in Estonia has also decreased in the last couple of years (893 persons in 2010), which was at its peak in 2005 (2703 persons) – the year after Estonia became an EU member state.

Overall it might be concluded that even though becoming an EU member state and acceding the Schengen area, and thus becoming responsible for securing the external border of the EU, has put Estonia “on the map”, Estonia’s migration policy has remained quite stable and with that also the numbers of third-country nationals wishing to arrive and stay in Estonia. This is also explained by the fact that Estonia is still not a very attractive country of transit or destination.

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<sup>171</sup> Koort, Pardla, 35.

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