



# Conditions of Entry and Residence of Third Country Highly-Skilled Workers in the EU

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This EMN Synthesis Report aims to summarise and compare, within a European perspective, the findings from eleven National Contact Points (**Austria, Belgium, Estonia, Germany, Greece, Ireland, Italy, Latvia, Sweden, The Netherlands** and the **United Kingdom**) of the European Migration Network (EMN), on the conditions of entry and residence of third country highly-skilled workers in the EU primarily from the year 2000 up to and including the year 2006.

It is primarily intended for policy makers, particularly at national and European levels, and especially in the labour-market domain. Other target groups are immigrant associations, trade unions, employer associations/unions and research institutions active in the field of migration studies.

The Synthesis Report, and the EMN NCP Country Study reports upon which it is based, may also be obtained from the EMN website: <http://www.european-migration-network.org> (under "EMN Reports").

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## Synthesis Report of EMN Small Scale Study III:

### Conditions of Entry and Residence of Third Country Highly-Skilled Workers in the EU

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## **Disclaimer**

This Report has been produced by the European Migration Network (EMN), and was finalised by the European Commission, in co-operation with the eleven EMN National Contact Points participating in this study, based on an initial draft produced by the former EMN Co-ordinator (Berlin Institute for Comparative Social Research). This report does not necessarily reflect the opinions and views of the European Commission, of the EMN National Contact Points or of the Berlin Institute for Comparative Social Research, nor are they bound by its conclusions.

## **Explanatory Note**

The eleven EMN National Contact Points who participated in this study were from **Austria, Belgium, Estonia, Germany, Greece, Ireland, Italy, Latvia, Sweden, The Netherlands** and the **United Kingdom**. Therefore, reference to "Member States" in this report is specifically only for these Member States.

## Executive Summary

A study on "Conditions of Entry and Residence of Third Country Highly-Skilled Workers in the EU" was undertaken by eleven National Contact Points (**Austria, Belgium, Estonia, Germany, Greece, Ireland, Italy, Latvia, Sweden, The Netherlands and United Kingdom**) of the European Migration Network (EMN). In keeping with the EMN's objective, the purpose of this study is to contribute to the development of a proposed directive on the entry of third country highly-skilled workers to the EU by providing an overview of the status and needs in the contributing Member States primarily from the year 2000 up to and including the year 2006. In this respect, the study is intended for policy makers at the national and European level, as well as other relevant stakeholders, such as immigrant associations, trade unions, employer associations/unions and research institutions active in the field of migration studies.

The policy context is presented in the Introduction ([Section 1.1](#)), along with an overview of the situation in the contributing Member States to illustrate the (potentially) increasing need for highly-skilled workers ([Section 1.2](#)). A number of factors are identified, including an increasingly ageing population and shrinking workforce, mismatch in the skills available in the national population and the skills needed, a high rate of emigration following accession, and increasing global competition for both highly-skilled nationals and for those from other parts of the world. The facilitation of the entry of third country highly-skilled workers is seen as one approach being taken to address such a shortfall.

As outlined in the Methodology ([Section 2](#)), in order to strive for comparability in the data between Member States, a highly-skilled worker was defined using the ILO ISCO-88 Groups 1, 2 and 3 classification system, in keeping also with the practice followed by EUROSTAT. It was not possible to do this for all Member States (e.g. **Belgium**), and, in fact, there are varying definitions used. Broadly speaking, the definition used for a highly-skilled worker, summarised in [Table 1](#), is on the basis of level of salary and/or educational qualifications and/or specific sectors or occupations. Despite this, each Country Study presents a comprehensive collation of the available data on highly-skilled migrants, a summary of which, including the caveats, is given. If a comparative, comprehensive view at EU-level is required, then there is a need for more consistent and accurate data collection in this area in some Member States.

A brief examination of the legislative context in the Member States concerning the entry of third country highly-skilled workers is provided in [Section 3](#). It is the general policy of all Member States to follow the principle of Community preference for access to their domestic labour market, taking into account the transitional arrangements. In general, the entry procedure for third country highly-skilled workers follows the same process as for other third country nationals, namely through work and residency permits ([Section 3.1](#)). **Austria, Latvia and Estonia** tend to use a quota system ([Section 3.2](#)) to regulate distribution, while **Belgium, Ireland, The Netherlands, Sweden and United Kingdom** respond to labour demand ([Section 3.3](#)). In the case of **Italy**, both procedures are used, while **Germany** does not use any of these procedures. Further requirements for entry exist in the form of language skills in **Estonia, Latvia**. In **Austria, Ireland, Italy, Germany, Greece, Sweden** and the **United Kingdom**, language ability is determined by the employers and is not considered a formal requirement for a work or residency permit, although, for the **United Kingdom's** future Points-Based System (PBS), knowledge of English will become a requirement. Fast-track programmes exist in **Ireland, Italy, Greece** and **The Netherlands** and are designed to expedite entry into the labour market for third country workers in certain occupations, some of whom qualify as highly-skilled. The Highly Skilled

Migrant Programme (HSMP) in the **United Kingdom** allows an applicant to enter without a job offer, which is the normal requirement for entry with a work permit. There are some notable schemes in **Estonia, Germany, Italy, The Netherlands** and the **United Kingdom** for a third country national wishing to establish their own business upon entering these Member States (Section 3.4).

Programmes to recruit and facilitate the entrance of third country highly-skilled workers are outlined (Section 4). While such programmes are not prevalent in some Member States (**Austria, Belgium, Germany, Greece, Italy, Sweden**), other Member States (**Estonia, Ireland, Latvia, The Netherlands**) have worked to develop them as part of larger visa or work permit schemes giving certain advantages to highly-skilled workers. This will also be the case in the **United Kingdom** when the Points-Based System is fully in place. Recruitment, as well as legislation, generally caters to a specific niche in the job market, such as academics (**Estonia**) or healthcare professionals from Poland (before Poland became a member of the EU (**Sweden**)), whereas in **The Netherlands**, the legislation which was specifically designed for highly-skilled workers does not contain restrictions with regard to preferences for a certain professional group.

The rights and obligations of third country highly-skilled workers are described in Section 5. In general, it is compulsory for Member States to provide the same rights to these workers as their national citizens. Specific rights for third country workers, such as family reunification are also provided by the Member States. However, while workers in some occupations might receive this right immediately, others must apply for it after a set residency period. In **Belgium** and **The Netherlands**, the duration of the residence permit for highly-skilled migrants is related to the duration of the employment contract. Generally, after five years of residence, a third country highly-skilled worker may apply for permanent residency (**Belgium, Estonia, Germany, Greece, Latvia, United Kingdom**) or an unlimited work permit (**Ireland, Italy**). Workers with outstanding qualifications can apply immediately for an unlimited settlement permit in **Germany**.

Although there are limited evaluations, the experiences with third country highly-skilled workers by the Member States are generally assessed as positive (Section 6). Aspects covered by such evaluations include whether current programmes meet the desired need (**Ireland, Germany, Greece, Italy**); the views from employers' organisations and trade unions (**Belgium, Estonia, Italy, The Netherlands, United Kingdom**); and the perceived difficulties in attracting highly-skilled workers (**Austria**). The need for complementary integration measures, such as provision of language classes, is also addressed, notably by **Sweden** and the **United Kingdom**. In **Germany, Italy, The Netherlands** and the **United Kingdom**, no particular encouragement is made for legally resident, highly-skilled migrants to return to their country of origin. A study in the **United Kingdom** has suggested that migrants from developing countries are more likely to want to settle permanently in this Member State than those from developed countries.

An overview of the available data is given in Section 7. The aim was to obtain data on the number of third country highly-skilled workers relative to the national and other EU or EEA totals, divided into the different ISCO-88 groupings mentioned above for the years 2000 to 2005 inclusive. Data on the number of third country highly-skilled workers by country of origin and gender was also sought. Although it was not possible for all Member States to provide all these data, it is possible to demonstrate the level of comparability currently attainable (Section 7.1) and to provide at least an indication of the scale of the number of highly-skilled workers (broadly broken down by Member State nationals, other EU-nationals and non-EU nationals) and the number of vacancies (to indicate the current need) in order to provide some comparison between

Member States (Section 7.2).

The Country Study reports covered the period up to July 2006. Since then, there have been a number of significant policy developments in **Ireland** (new Employments Permits Scheme), **Italy** (governmental reform proposal of the migration law and, in particular, of the work entry procedures), **Estonia, Latvia, Sweden** (outcome of committees evaluating the necessity and procedures for entry of highly-skilled workers), **The Netherlands** (assessment of recent knowledge migrant legislation), and the **United Kingdom** (Points-Based System). An overview of these is provided in Section 8.

Finally, the Concluding Remarks (Section 9) gives an overview of how the main findings of the study could be used for policy development. Certainly in terms of data, and being able to have comparability between Member States, it would seem appropriate that future data collection methods become consistent, as well as considering developing a consistent definition for "highly-skilled", perhaps using the ISCO-88 classifications, following the practice of EUROSTAT. As one might expect, the overview of the situation in each Member State demonstrates that there are both similarities and differences, also in the approach followed. The general desire to facilitate the entry of highly-skilled workers which the Member States need, but to reduce this need and dependency on migrant highly-skilled labour by improving the education system and (re-)training the national workforce, as well as the avoidance of wage dumping,<sup>1</sup> seem to be consistent issues. Views from **Germany, Ireland, Italy, The Netherlands** and **United Kingdom** with regard to the development of a proposed directive to facilitate the entry of third country highly-skilled workers to the EU are also given.

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<sup>1</sup> i.e. paying migrants less than the salary given to a Member States' national workers.

## 1. Introduction

This Synthesis Report aims to summarise and compare, within a European perspective, the findings from eleven National Contact Points (**Austria, Belgium, Estonia, Germany, Greece, Ireland, Italy, Latvia, Sweden, The Netherlands** and the **United Kingdom**) of the European Migration Network (EMN), on the conditions of entry and residence of third country highly-skilled workers in the EU primarily from the year 2000 up to and including the year 2006. In keeping with the EMN's objective, the purpose of this study is to contribute to the development of a proposed directive on the entry of third country highly-skilled workers to the EU by providing an overview of the status and needs in the contributing Member States over this period, as well as more recent policy initiatives. The outcomes of this study as presented in this Synthesis Report, and the Country Study reports upon which it is based, are intended primarily for policy makers, particularly at national and European levels, and especially in the labour-market domain. Other target groups are immigrant associations, trade unions, employer associations/unions and research institutions active in the field of migration studies.

Similarities and differences in the approaches of the Member States are presented in a comparative manner. Given the nature of a Synthesis Report, more detailed information can be found in each Country Study, and one is strongly recommended to consult these also, since they provide a comprehensive overview of the current situation in the participating Member States. Note that reference to "Member States" is specifically only for those contributing to this study.

An overview of the policy context and needs in each Member State now follows. The next section then discusses the methodology used. The national legislation for migration of third country highly-skilled workers in the Member States is outlined, followed by a summary of the programmes available in different Member States for attracting such workers. The rights and obligations of third country highly-skilled workers are also described, including whether (and, if so, how) these workers differ from other labour migrants, what they must do to stay in the country, and any employer responsibilities. This is followed by a description of Member State experiences with third country highly-skilled workers, assessing the effectiveness and efficiency of current policies. A description of the available data on highly-skilled workers is then provided, followed by an overview of more recent (since July 2006) policy initiatives and concluding remarks.

As one might expect, a number of previous studies have been undertaken to address this important topic. Of particular note are the “International Mobility of the Highly-Skilled”<sup>2</sup> (OECD 2002); “Migration Policies towards Highly-Skilled Workers”<sup>3</sup> (McLaughlin/Salt 2002) and the “International Comparative Study of Migration Legislation and Practice”<sup>4</sup> (IOM Dublin 2002), although these may not now properly reflect the situation in 2006. The European Commission also undertook a comparative study on the “Admission of third country nationals for paid employment or self-employed activity”<sup>5</sup> in 2001, but did not include the EU-10 Member States. Current information on the admission of highly-skilled immigrants was also sought from the Commission’s Committee on Immigration and Asylum (CIA).

## 1.1 Policy Context

Migration management has been a central issue in political and academic debates on the global and European levels over the last decade, focusing on the supply of and demand for economic migrants, especially highly-skilled workers. It has been predicted<sup>6</sup> that the demographic changes for the first half of the 21<sup>st</sup> century will result in the proportion of EU-citizens of working age decreasing from 67.2% in 2004 to 56.7% in 2050 and immigration is seen as one way of addressing these changes. In the context also of the Lisbon Agenda<sup>7</sup>, with the aim of increasing *inter alia* the EU's competitiveness, and that, for example, 54% of MED-MENA<sup>8</sup> first-generation immigrants with a university degree reside in Canada and the USA, one can clearly see the need for highly-skilled workers within the EU.

Another aspect to consider is the so-called 'brain-drain' and, as again recently highlighted in the Commission's Communication on a "Global Approach to Migration"<sup>9</sup>, an equitable immigration policy which incorporates return and/or circular migration might appear to be needed. Similarly, the effect that the admission of third country nationals in one Member State might have on other Member States and their markets should be considered.

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<sup>2</sup> Introduction given at <http://www.oecd.org/dataoecd/4/18/2727370.pdf>.

<sup>3</sup> Available from [http://www.geog.ucl.ac.uk/mru/docs/highly\\_skilled.pdf](http://www.geog.ucl.ac.uk/mru/docs/highly_skilled.pdf).

<sup>4</sup> Available from <http://www.iomdublin.org/Publications/Comparative%20Study%20Migration%20Legislation%20Practice.pdf>.

<sup>5</sup> Available from [http://ec.europa.eu/justice\\_home/doc\\_centre/immigration/studies/docs/ecotec\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/immigration/studies/docs/ecotec_en.pdf).

<sup>6</sup> COM(2006) 571final, available from [http://ec.europa.eu/employment\\_social/news/2006/oct/demography\\_en.pdf](http://ec.europa.eu/employment_social/news/2006/oct/demography_en.pdf).

<sup>7</sup> See <http://ec.europa.eu/growthandjobs/>.

<sup>8</sup> Mediterranean countries of the Middle East and North Africa.

<sup>9</sup> COM(2006) 735final, available from [http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006\\_0735en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0735en01.pdf).

In this context, the Commission Communication on a “Policy Plan on Legal Migration”<sup>10</sup> envisages proposing a directive for developing a common procedure to quickly select and admit third country highly-skilled workers, and to provide attractive conditions to encourage them to come to Europe. Such a proposal would also evaluate whether intra-EU mobility or a more ambitious proposal, such as an EU work permit (EU Blue Card), issued by one Member State but valid throughout the EU, might be feasible. Related to this, is the Commission Communication on "Promoting Decent Work for All",<sup>11</sup> which was endorsed by the European Council at the end of 2006. The aim of this initiative is to strengthen EU policies, actions and programmes so as to promote decent work, as defined in the Communication, both within the Union and worldwide, including the better management of economic migration.

## 1.2 The need for highly-skilled workers

A brief overview of the situation in the contributing Member States is given here in order to illustrate further the (potentially) increasing need for highly-skilled workers.

Population ageing in **Austria** is presented as a strong argument for a larger migrant intake in order for its economy to remain competitive. The majority of its workforce has medium vocational skills (ISCO-88 Groups 4 and 5) and, whilst priority is given to education and training of its nationals, it is becomingly increasingly aware that in a global market, it will have to compete with other developed countries, both for its own national highly-skilled workers and for those from other parts of the world. In fact, in recent years, 'brain-drain' has occurred in that some of its best national highly-skilled workers have taken positions in Germany, Switzerland, as well as Australia, Canada and the U.S.A.

The main reason why there is an increasing demand for highly-skilled workers in **Belgium** is the lack of skilled personnel in its national population. An increasing number of companies are involved in cross-border projects, or are part of a multinational group, and it is also considered necessary to attract or host foreign personnel for a short period. Another consideration is the fact that the labour market shows considerable inflexibility in terms of wages and worker movement. For certain labour skills, there is a mismatch in supply and demand, which is seen between the

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<sup>10</sup> COM(2005) 669 final, available from [http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005\\_0669en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0669en01.pdf).

<sup>11</sup> COM(2006) 249 final, available from [http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006\\_0249en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0249en01.pdf).

various regions too.

The current situation in **Germany**, like for other international labour markets, is characterised by high levels of unemployment, accompanied by a simultaneous shortage of experts and specialised personnel. The existing qualification structure of the national labour force is not in accordance with the qualification demands of a rapidly changing global economy and a national economy undergoing far-reaching structural changes (termed a "qualification mismatch"). In spite of considerable efforts to improve qualification levels of employees, as well as of unemployed persons, an additional demand for highly-qualified experts is acknowledged. The situation is further exacerbated by demographic changes (the increasing ageing of the population which is then expected to shrink considerably) and the increasing tendency for highly-skilled workers to emigrate to countries like Canada and the USA.

An ageing and shrinking population is also affecting **Estonia**, which, in addition, also has had a high rate of emigration following accession, primarily because it cannot yet compete with the average salaries in the EU-15 Member States. The shortage of labour in some sectors in the near future is also connected to the changes in education system, which has resulted in a current shortage of technical specialists.

**Latvia** too has seen an outflow of its labour force to the EU-15 following accession and this is one of the most crucial issues for economic policy-makers in light of the current and rapid economic growth. Whilst a study is currently underway to determine the long-term needs, a possible short- to medium-term measure being considered is to recruit workers from the Commonwealth of Independent States.<sup>12</sup> The current policy of the government is to protect the internal labour market and the Prime Minister's stated view is that the current emigration of the labour force will self-regulate and reverse in time, when the salary level in Latvia increases.

The economic boom in **Ireland** of the past two decades or so has, particularly in the past decade, led to a dramatic increase in employment demand. Whilst initially this demand was supplemented by returning Irish emigrants and then other EU/EEA nationals, more recently from EU-10 Member States following their accession, an Expert Group on Future Skills Needs<sup>13</sup> found that

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<sup>12</sup> These are essentially the ex-USSR states, see <http://www.cis.minsk.by/main.aspx?uid=74>.

<sup>13</sup> "Skills Needs in the Irish economy: the Role of Migration" (2005), available from

continued non-EU/EEA immigration will be required to meet some high skill needs. Currently shortages exist in the construction, financial, engineering, IT, pharmaceutical, healthcare and integrated supply chain sectors.

In **Italy**, where the demographic trend is significantly negative, there is a shortage of both low- and highly-skilled workers, the most important example being nurses who are routinely admitted beyond the established quota.<sup>14</sup> It is also common for a third country highly-skilled worker to begin an appointment upon entering Italy at a lower level until their employer has evaluated their capacities.

According to existing forecasts, there will be no general shortage of labour in **Sweden** in the near future. However, there are currently shortages in certain occupations and sectors, and for highly-skilled workers, the greatest imbalance longer-term will be in the healthcare sector, as well as for various types of technical skills. Predictions estimate that in 2020, 40% of the labour force will need to be highly-educated (currently it is 33%), although this estimation assumes that participation in the labour market will increase due to later retirements and also due to further equalisation of the participation of men and women. A Committee was appointed to assess the need for and consequences of labour immigration and its findings are outlined later in Section 8.

Expectations in **The Netherlands** are that from 2006 onwards, employment will increase significantly and unemployment will decrease, with growth expected to be greater for those with a higher level of education, particularly in medical disciplines, language and literature and in socio-cultural disciplines. As far as the workforce itself is concerned, the demand for new workers plays a crucial role and two important developments are distinguished in this respect. Namely, an increasing ageing of the workforce and, at the same time, a trend for an increasing participation of the workforce which currently offsets this ageing of the workforce. For the period up to 2010 this second factor will play an important role. Ultimately, however, the issue of the ageing of the workforce will have a significantly greater impact on the need for replacement than the increase in labour participation. The number of jobs will, therefore, grow more quickly in the years to come than the size of the workforce and this predicted shortage of highly-skilled workers

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[http://www.skillsireland.ie/press/releases/2005-10-27-migration\\_report\\_pr.html](http://www.skillsireland.ie/press/releases/2005-10-27-migration_report_pr.html).

<sup>14</sup> Further details may be obtained from the EMN's study on "Managed Migration and the Labour Market – The Health Sector" (ISBN 978-92-79-05519-5)

in particular is seen as impeding the development of a knowledge economy. One possible solution being considered involves attracting so called "knowledge migrants" from abroad.

The **United Kingdom**, like other Member States, has recognised that in order to improve its productivity level and compete with its main comparator countries, it needs to improve its national skill levels, particularly highly-skilled. Initiatives are in place to improve the skills of the national population generally, for example, by improving education and training opportunities of the workforce, and so the migration of highly-skilled workers is considered as just one part of a package of measures to address skills shortages.

## 2. Methodology

The EMN does not engage in primary research *per se*, but instead draws together and evaluates collected data and information, making it more accessible. Most of the data from this study comes from national Ministries of Interior, Ministries of Labour, various national statistic offices and other research organisations, such as the Institute of Economic Research, Population Statistics and Population Census (**Austria**), the Citizenship and Migration Board plus Population Census (**Estonia**), and the National Statistical Service (**Greece**). Other data sources utilised were published and unpublished reports, media coverage of highly-skilled labour, interviews, and websites from different organisations related to migration and labour. In **Italy**, it was possible to investigate the potential demand for new third country highly-skilled workers, thanks to a widespread survey on manpower provisions supported by the Ministry of Labour and executed by the Union of Commerce Chambers.

For some Member States, highly-skilled immigration is not a focal point in national migration discourse, and other areas, such as emigration (**Latvia, Estonia**) or low-skilled irregular labour migration (**Greece**), take precedence. In **Italy**, the need of highly-skilled workers is strictly linked to the shortage of low-skilled workers. The lack of importance placed on highly-skilled labour migration in some Member States means that Ministries and Organisations sometimes have inadequate data in this area. One consequence is that some terms and definitions have been moulded for the particular Country Study, where the specific data were lacking. The limited data in some Member States result in conclusions made through comparisons with other Member

States (e.g. **Estonia** in relation to Finland) or through statistical estimations (**Greece, Ireland, Latvia, United Kingdom**) where Labour Force Surveys are used to identify migrants. Another issue encountered relates to the underground (or informal) labour market, which does not allow for accurate data collection (**Greece**), or, at the opposite end of the spectrum, that employers in the higher skill segment tend not to inform the ministries or labour market services about job vacancies or skill deficiencies (**Austria**), or where the complexity of the migration routes means that it is currently impossible (though, as described in Section 8, this is being overhauled) to present a full picture of all aspects of highly-skilled migration (**United Kingdom**).

For the purposes of this study, "third country" refers to a non-EU/EEA national. In order to provide a common framework for the study, the practice of EUROSTAT was followed, namely to consider the following International Labour Organisation ISCO-88 classifications<sup>15</sup> to be "highly-skilled":

- Major Group 1: Legislators, Senior Officials and Managers;
- Major Group 2: Professionals;
- Major Group 3: Technicians and Associate Professionals;

which includes also researchers, but not students. Thus a "third country highly-skilled worker" is defined as a "non-EU/EEA national whose expertise falls within ISCO-88 classifications 1, 2 or 3" and is the term used throughout this report.

The following classifications were then considered to be "skilled":

- Major Group 6: Skilled Agricultural and Fishery Workers;
- Major Group 7: Craft and Related Trades Workers;
- Major Group 8: Plant and Machine Operators and Assemblers.

The focus of the study was on Groups 1-3 inclusive, but, whenever possible, inclusion of data also for Groups 6-8 was sought. Depending on the information available, and in order to provide as comprehensive a study as possible, data down to the level of Sub-Major Group (e.g. Sub-Major Group 1.2 corresponds to "Corporate Managers") was also sought.

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<sup>15</sup> For Major, Sub-Major, Minor and Unit Group titles, see <http://www.ilo.org/public/english/bureau/stat/isco/isco88/major.htm>.

**Austria, Greece, Ireland, Italy, Sweden** and **The Netherlands** all employ the ISCO-88 major group classifications in the collection of their data, whereas **Germany** used the Classification of Vocations (*Berufsordnung*) from the Federal Labour Agency and the **United Kingdom** used the Standard Occupational Classification (SOC), which is similar to ISCO-88, and an alternative classification system unique to Work Permits UK. In **The Netherlands**, statistical data on the labour force in ISCO-88 terminology is available, although no distinction is made between migrants and nationals. **Italy** collects migration data using the ISCO-88 classification with respect to the needs for new workers as expressed by employers, whilst, with regard to the qualifications of those hired, there is some delay, although, since 2005, a new foreign labour force survey has been enforced, which will mean that data on qualifications will soon be possible. **Germany, Ireland** and **Sweden** were able to provide more detailed data on occupational sub-groups, while **Estonia** and **Latvia** note the general absence of highly-skilled labour immigration and the consequent lack of data. They focus instead on highly-skilled labour emigration.

Even when it was not possible to follow the ISCO-88 classifications, and this has been explained in the methodology of the respective Country Study, it was possible to provide, in most cases, an (estimated) mapping from these other categorical terms into ISCO-88 categories (**Germany, Ireland, Italy, Sweden** and **United Kingdom**), allowing for a highly comparable report. While **Belgium** was able to provide (partial) statistics according to nationality, gender and occupational sector, these could not, however, be converted into Major Groups in line with the ISCO-88 terminology. This was also the case for **Estonia** and **Latvia**.

## 2.1 Member State definitions of "highly-skilled"

Definitions of highly-skilled labour are shaped around the particular situation in each Member State and, in some cases, are not fixed but dependent on a number of factors. Accordingly, the definition of a highly-skilled worker often does not take into account the ISCO-88 classification. Broadly-speaking, the definition used for a highly-skilled worker is on the basis of level of salary and/or educational qualifications and/or specific sectors or occupations. In the following Table 1, a summary of the definition(s) or practice followed in each Member State is given.

| Member State    | Definition/Practice followed  |
|-----------------|---|
| Austria         | Focus is placed on the idea of immigrants with key skills ( <i>Schlüsselkraft</i> ), a term which refers not only to educational attainment, but also to skills acquired over time through experience and, crucially, skills which are considered scarce. Accordingly, they are able to obtain a salary of at least €2.200 per month, which is equal to or above 60% of the upper limit for progression of social security contributions.   |
| Belgium         | Defines (according to the law) highly-skilled workers in terms of minimum gross annual salary (in 2006 €33.082; 2007 €33.677) and duration of the permit. The relevant migration offices, who deliver the work permits, for practical reasons also take into account the official qualification (requirement of at least non-tertiary higher education) and experience.   |
| Estonia         | No definition, as well as no specific legislation, exists for highly-skilled workers, cautious attempts are made to create definitions and categorisations out of the statistical labels by profession or education.  |
| Germany         | "Highly-qualified" non-Germans ( <i>Hochqualifizierte</i> ), mainly managers, academics and scientists with outstanding qualifications, teaching personnel in high-ranking positions, as well as recognised specialists and executive personnel, are defined by law.  |
| Greece          | No definition, as well as no specific legislation, exists for highly-skilled workers, cautious attempts are made to create definitions and categorisations out of the statistical labels by profession or education.  |
| Ireland         | At time of writing no definition of, or legislation on, highly-skilled workers existed. Workers holding work visa/authorisations were the closest equivalent. A work visa/authorisation was a fast track employment permit issued to highly-skilled non-EU/EEA workers in specified occupations where there were identified shortages.<br><br>In January 2007 a new employment permits system was introduced, further details of which are given in Section 8.  |
| Italy           | Legislation defines, in an indirect way, a highly-skilled worker through various examples that presume a relevant preparation and a high performance capacity, such as: managers or staff of highly-skilled companies having their place of business or branches or offices of representation in Italy; lecturers, researchers and university professors; translators and interpreters; workers called to perform specific but temporary functions; those working abroad for companies established in Italy; artistic and technical staff; dancers, artists and musicians; artists of the sector musical, theatrical, cinematography, radio and television; those undertaking any type of professional sporting activity; correspondent journalists working in Italy and regularly paid from abroad; those who undertake research or occasional work in Italy in the context of an exchange programme for young people. |
| Latvia          | No specific entry and residence regulations for third country highly-skilled workers currently exist.   |
| Sweden          | Emphasis is placed on skills obtained from occupational experience, rather than simply through a formal educational programme.  |
| The Netherlands | A "knowledge migrant" is defined as being anyone with a higher vocational or higher academic qualification and all others who play a catalysing role in innovation processes and is based on exceeding a pre-defined salary. In 2007, this is €46,541/year and €34,130/year for a migrant aged 30 years or less respectively. Additional criteria (such as educational level and working experience) are taken into account, but these are not incorporated in legislation.   |
| United Kingdom  | Depends on the route of entry. If coming in under HSMP, 75 points or more are required. Points are based on previous earnings, qualifications, UK experience and age. There is also a separate mandatory English language requirement. (The HSMP rules changed towards the end of 2006). If coming in under the Work Permit scheme, the employer must apply for the work permit and, if successful, the applicant must apply for a visa. The employer will need to be offering a job at a skilled level which requires the applicant to have at least a degree/HND-level qualification or three years senior-level vocational experience at National Vocational Qualification (NVQ) level 3.  |

**Table 1: Summary of definitions/practice followed for determining "highly-skilled"**

### 3. National Legislation for Entry of Third Country Highly-Skilled Workers

The legislative context in the Member States pertaining to the immigration of third country highly-skilled workers generally follows the process of regular immigration of other third country nationals. Compliance with EU legislation is also changing the context for the immigration of third country nationals in **Austria**, which redrafted its immigration law in 2005. These changes refer to the right of settlement of third country nationals who have gained a residency permit in another Member State, as well as to issues of family reunification. **Estonia** and **Latvia** have also recently passed new legislation regarding the entrance and labour rights of EU citizens in order to meet EU standards. On 1<sup>st</sup> January 2005, a new Immigration Act came into effect in **Germany**.

Entry into the labour market of third country nationals is largely regulated through work and residency permits in all Member States, which is especially true for long-term work and settlement. Nevertheless, the application procedures and distribution of these permits is varied. For example, the **United Kingdom** currently has over 80 routes of entry for work, study or training<sup>16</sup>, although initiatives are currently underway to simplify the migration process. It is the general policy of all Member States to follow the principle of Community preference<sup>17</sup> for access to their domestic labour market, taking into account the transitional arrangements<sup>18</sup> in place in a particular Member State following enlargement of the EU in 2004 and, more recently, 2007.

#### 3.1 Work, Visa and Residence Permit Provisions

Work permits, as well as work visa/authorisations, are issued in the Member States for a limited time period, generally 12-24 months. In **Sweden**, there are further regulations concerning work permits for international exchanges which can be given for a period of up to four years, but there are also exceptions to the requirement for work permits for professional artists, staff working on tourist coaches, lecturing researchers, professional athletes and entrepreneurs. In **Germany**, academics and scientists with outstanding qualifications, teaching personnel in high-ranking positions, as well as recognised specialists and executive personnel can, in special cases, be

<sup>16</sup> Given this variety, the **United Kingdom** Country Study concentrates on two primary routes of entry, namely the Work Permit Scheme and the Highly-Skilled Migrant Programme (HSMP).

<sup>17</sup> Council Resolution of 20<sup>th</sup> June 1994, in connection with Council Regulation (EEC) No. 1612/68, see [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31996Y0919\(02\)&model=guichett](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31996Y0919(02)&model=guichett).

<sup>18</sup> For details of these transitional arrangements, see [http://ec.europa.eu/employment\\_social/free\\_movement/enlargement\\_en.htm](http://ec.europa.eu/employment_social/free_movement/enlargement_en.htm).

granted a settlement permit if a specific job offer is available; if it can be expected that the integration of the foreign national into German society will not be problematic; and if there is no doubt that applicants can earn their own cost of living and support their family without relying on public assistance. Highly-qualified applicants do not require prior approval by the Federal Labour Agency. Permits can be renewed under certain conditions, such as for a particular period of time (**Belgium, Ireland, Sweden**), the duration of the economic activity, or compliance with the tax obligations (**Greece**). In **Belgium**, a third country highly-skilled worker can be employed for an indefinite period if they at least attain the minimum salary level required to be considered as a third country national with a Managerial position (and earning, in 2006, at least €55.193/year).

Fast-track programmes exist in **Ireland, Italy, Greece** and **The Netherlands** and are designed to expedite entry into the labour market for third country workers in certain occupations, some of whom qualify as highly-skilled. In **Belgium, Germany, Ireland, The Netherlands** and the **United Kingdom** (Work Permit scheme), the third country worker must already have a concrete job offer in order to qualify, whilst in **Italy**, following linguistic and professional educational programmes, sponsored by the Italian government and followed before entering this Member State, gives the third country national higher priority for inclusion in the national entry quota. In the **United Kingdom**, unless applying through the standard work permit route, an applicant may enter without a job offer through the Highly Skilled Migrant Programme (HSMP). Following successful application through demonstration of appropriate levels of qualifications, experience and past earnings, these applicants are free to seek and take any work within the United Kingdom, whereas those on work permits are restricted to one employer. In **The Netherlands**, a highly-skilled migrant does not need a separate working permit. The duration of the residence permit is related to the duration of the employment contract. If a highly-skilled migrant is in possession of a permanent employment contract, a residence permit with a maximum duration of five years can be granted, after which the residence permit can be renewed. By contrast, residence permits of regular (labour) migrants in general have a one year duration. In **Ireland**, while recruitment responsibility rests with prospective employers, the work visa/authorisation scheme facilitates recruitment in the areas of information and computing technologies, construction professionals, and a broad range of medical, health and social care professions.<sup>19</sup> Workers in these occupations are also required to meet a standard level of qualifications and may also require

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<sup>19</sup> These occupations were selected through an analysis of labour supply shortages prior to 2002. However, the list is not static and is updated to reflect the changing situation every 12-18 months.

certification by the relevant authority in their field. The recruitment system is based on a labour market test, in the form of advertising the post in Ireland and the rest of the EU/EEA.

Qualification and certification also plays an important role in **Belgium**, as highly-skilled workers are required to have the appropriate level in order to qualify for a work permit. In **Greece**, third country workers in certain fields can bypass the time-consuming general legislative provisions for obtaining a work permit by applying directly to the Ministry of Interior for a special visa. Most of the professions in the programme qualify as highly-skilled.<sup>20</sup>

Limitations on receiving work permits exist in **Latvia** and **Estonia**, both of which have linked language proficiency to receiving residency or work permits. In **Estonia**, migrants must know the Estonian language<sup>21</sup> (at least at beginner level) in order to apply for a long-term residency permit. In **Latvia**, the language law regulates that occupations require a corresponding competence in the Latvian language.<sup>22</sup> Up to the end of 2006, language requirements were built into the integration measures for third country highly-skilled workers in the Flanders region of **Belgium**, where they were required by Flemish civic integration policy to undergo a training programme, consisting of a Dutch language course and a social guidance course. Since the 1<sup>st</sup> January 2007, this training programme is no longer compulsory for third country highly-skilled workers. In the other Member States (**Austria, Ireland, Italy, Germany, Greece, Sweden, United Kingdom**), language ability is determined by the employers and is not considered a formal requirement for a work or residency permit, although, for the **United Kingdom's** future Points-Based System (PBS), knowledge of English will become a requirement, as it is considered to be an important predictor of integration and economic success, and an application will fail if a basic level is not met. The English language requirement has already been introduced for the HSMP. In **Sweden** and in **Italy**, while language is not a requirement for receiving a work permit, it is considered important and valuable for obtaining a higher level job, especially one that would be comparable to what the migrant is qualified to do in their country of origin. In **The Netherlands**, although there are civic integration requirements (adequate knowledge of the Dutch language and society)

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<sup>20</sup> This list include company managers, board members and staff, workers serving the “public interest”, members of archaeological schools, intellectual and creative workers (defined as writers, directors, painters, sculptors, actors, song artists, choreographers and scenographers), as well as specialised personnel in companies.

<sup>21</sup> Short-term residency permits do not require language ability. According to the new law, language tests for long-term residence permits will not be administered until 2007 and migrants younger than 15 and older than 65 are exempt from such tests.

<sup>22</sup> Thus, highly-skilled jobs require more advanced knowledge of Latvian, whereas non-skilled labour requires only basic knowledge.

for other resident categories that have to be fulfilled before a residence permit can be granted, highly-skilled migrants are exempted from such requirements.

### 3.2 Quota Systems

In **Austria, Estonia, Greece, Italy** and **Latvia**, different types of quota systems are in place to regulate the entrance of third country nationals into the labour market by placing a cap on the number of work permits issued. In **Greece** there are joint local labour force committees which identify the local labour needs, which once finalised are publicised at various Greek consulates. Applications received at the various Consulates are then approved by employers and sent to the Secretary General of the Region for approval and then work visas are granted by the Ministry of Foreign Affairs. For **Italy**, the entry of third country highly-skilled workers in a few cases is open without any quantitative limitations and in others is planned annually by the Italian government. Third country nationals receive a settlement permit in **Austria** allowing access to the labour market on the basis of an employer nomination scheme, which necessitates that they possess key skills (*Schlüsselkräfte*) in an area of scarcity in the labour market. Moreover, to prevent wage dumping, the migrant's wage must be at least 60% of the wage at which the social security contribution reaches the maximum limit.

Exceptions to quotas do exist in **Austria**, for third country nationals who meet certain conditions (means-tested, or occupational<sup>23</sup>). In **Greece** and in **Italy** also, there is a different application structure for certain occupations, which are not subject to the quota system. In **Italy**, for example, the largest number of third country highly- skilled workers enter via the annual quota (2.500 in 2005), while there is no limit, referring to Table 1, for company managers, lecturers and university professors, translators and interpreters.

While **Latvia** in general does not use a quota system, and its legislation has less restrictive procedures for certain professional groups, one has been developed for workers in the Information Technology (IT) field.<sup>24</sup> Due to the need for IT professionals,<sup>25</sup> third country

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<sup>23</sup> These include third country workers in the foreign media, artists, researchers, HS managers, diplomats, and representatives of religious groups, as well as workers above a certain salary level.

<sup>24</sup> The quota limits the amount of free permits to 100.

<sup>25</sup> For **Latvia** this includes project directors, quality managers, lead project managers, lead system architects, lead system analysts, lead software developer, lead IT solutions consultant and lead business consultant in information

nationals, with the necessary credentials and experience, can receive permits free of charge and without certification of the employer's offer of employment. In 2005, several of the big IT enterprises in **Latvia** recruited professionals from the USA, Russia, Ukraine, among other countries, to work on specific projects. A general quota has been instituted in **Estonia**, guaranteeing that immigration does not exceed 0.05% (approximately 675 persons) of the population per year, although this does not apply to ethnic Estonians, other EU citizens or citizens of Iceland, Japan, Norway, Switzerland and the USA. The Minister of Internal Affairs may, on a reasoned proposal of the concerned Minister, provide an exemption if it is in the national interests for economic, educational, scientific or cultural development.

### 3.3 Labour Demand Approach

In **Belgium, Ireland, Sweden, The Netherlands** and **United Kingdom**, the entrance of third country nationals is defined more by the demand for labour, rather than through a quota system. Individual firms and employers play an important role in selecting which workers receive the necessary permits. Generally, if the position cannot be filled following the principle of Community preference mentioned previously, firms extend job offers to third country citizens. Exception exist, such as in **Belgium**, where third country nationals, who meet the legal requirements of a limited number of well-defined categories, including highly-skilled workers, may be appointed directly without any such consideration. In **Ireland**, legislation requires firms to first post vacancies with the national employment agency for four weeks before they open the position to applications from third country nationals. Similarly in the **United Kingdom**, with respect to the occupations not on the skills shortage list for which a Work Permit must be sought, employers must demonstrate that the post has been adequately and clearly advertised, that pay and conditions are in line with resident labour rates, and that suitably qualified or experienced resident applicants were unavailable. However, employers with a vacancy on the skills shortage occupation list are exempted from advertising the job to the resident labour market and may offer it directly to a third country national. In **Sweden**, labour supply shortages are met with an active labour market policy, including training programmes to adjust for structural imbalances in the supply. However, during the resulting catch-up period, short-term (usually around twelve months) work permits are issued to third country workers to help fill the gap in the labour market. Highly-skilled workers are one of these categories. In **The Netherlands**, highly-skilled migrants

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technology.

who meet the income criteria can be granted a residence permit for the duration of the employment contract up to a maximum of five years, after which the residence permit can be renewed, on condition of having a permanent employment contract and the employer being registered in the "knowledge migrant scheme", although they are not required to be in possession of a work permit. Furthermore, they can be appointed directly without the authorities concerned taking EU/EEA citizens into account.

### 3.4 Self-Employment

There are some notable schemes in **Estonia, Germany, Italy, The Netherlands** and the **United Kingdom** specifically for a third country national wishing to establish their own business upon entering these Member States. For **Ireland**, third country nationals can apply for business permissions which allow them to set up a business if certain conditions are met and in **Italy**, there is an annual quota for third country nationals wishing to become self-employed upon taking up residence, dependent on a certain income and industrial capacity being attained. It is, however, permitted for a third country national already employed and resident in Italy to then become self-employed, and there are many instances of this occurring. For the **United Kingdom**, those migrants entering under the HSMP (or other schemes such as the Innovator and Investor Schemes<sup>26</sup>) are entitled to be self-employed, but not those entering on Work Permits. In **Estonia**, a third country national can apply for a temporary residence permit for undertaking business if they own shares in a company, act as a sole proprietor, are registered in the Estonian Commercial Register or if the business is necessary for the national interest of developing the Estonian economy. Short-term employment (up to six months, without a work and residence permit) is also possible for making direct foreign investments, for establishing the branch of a foreign company in Estonia, or for representing or performing managerial duties connected to the relocation of a company which is registered in Estonia but is part of an international concern. In **Germany**, the granting of residence for migrants working as self-employed is not based on qualifications, but on criteria like economic interest, necessary funding or quality of the business idea. As for other workers, highly-skilled workers intending to be self-employed are first granted a limited residence permit, which – if they have been successful in realising their business idea after a period of three years - can be converted into an unlimited settlement permit.

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<sup>26</sup> Innovator and Investor Schemes aim to encourage entrepreneurs to set up new businesses in the **United Kingdom**.

Migrants who wish to establish themselves in **The Netherlands** as an independent entrepreneur can apply for a residence permit with a ‘self-employment’ restriction. No work permit is needed for self-employment, although, in addition to a number of more general conditions, they must comply with the requirements that apply to those practising the profession in question, and the business activity must serve a material Dutch interest through having a clear innovative value and not adversely affecting competition.

#### **4. Programmes for Attracting Third Country Highly-Skilled Workers**

Special programmes for attracting third country highly-skilled workers are still not, or at least have not been for a long time, common in some Member States (**Austria, Germany, Greece, Italy, Sweden**). Other Member States (**Ireland,**<sup>27</sup> **Latvia, The Netherlands**) have programmes which are part of larger visa or work permit schemes giving certain advantages to highly-skilled workers, but are not set-up specifically for highly-skilled recruitment purposes, whilst the **United Kingdom** has its specific Highly Skilled Migrant Programme (HSMP). Generally, programmes or legislation are or were established to cater to a specific niche in the job market, such as IT-experts (**Germany's** “Green Card initiative” from 2000-2004), academics (**Estonia**) or healthcare professionals from Poland, before Poland became a Member State (**Sweden**). In **Belgium**, the admission of third country highly-skilled workers is one of the legal exceptions where no account is taken of specific shortages in the national labour market and no bilateral agreements regarding employment are necessary. Consequently, there are no specific programmes, as the Belgian regulation is already quite flexible.

A particular incentive of the **United Kingdom's** HSMP is considered to be the flexibility offered. Migrants entering via this programme may work in any occupational sector for any employer and they may also be self-employed. Also their residency entitlement will not end if and when their employment ceases. Applicants are required to achieve 75 points to enter the United Kingdom through the HSMP.<sup>28</sup> This assessment is based on previous earnings, qualifications, UK experience and age. Applicants with an MBA from one of the top 50 schools in the world are automatically awarded 75 points but must still meet the mandatory English language requirement.

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<sup>27</sup> Since January 2007 a specific highly-skilled labour migration scheme has been established in **Ireland**, which is outlined in Section 8.

In **Estonia**, the projects begun by the Foundation for Life-long Learning Development Innove, can be considered as a programme for attracting highly-skilled workers. The Foundation was established to promote initiatives and activities of life-long learning in areas of human resources development. The programme brings university professors from the EU and third countries to Estonian universities. Furthermore, the Estonian section of the job search portal EURES,<sup>29</sup> provides information about life and work conditions in Estonia. This portal is geared towards EU nationals seeking employment, and information is available in Estonian, English and Russian. Apart from these programmes, Estonian entrepreneurs and employers are responsible for searching and recruiting third country highly-skilled workers themselves. This can result in a lengthy, and often unreasonable, work permit application process, which effectively makes short-term projects unfeasible.

The work visa/authorisation scheme in **Ireland** provides three main incentives, the first in the form of issuance directly to the individual worker and not to their employer, as is normally the case.<sup>30</sup> The work visa/authorisation holder is then allowed to work for any company in a specified sector. The holder also has a visa pre-clearance and their spouse may receive a spousal work permit. These visa incentives help to make Ireland an attractive destination for highly-skilled workers. Previously, **Ireland** offered an intra-company transfer scheme and an intra-company trainee scheme. The former scheme allowed companies with a presence in Ireland and in another non-EU/EEA country to transfer staff to Ireland for up to four years without requiring an employment permit. The trainee scheme was intended for the temporary transfer of senior management or key personnel within international companies, but both of these programmes were suspended in 2002 due to abuses, such as cheap low-skilled workers being brought in under the transfer programme or very experienced workers entering on the trainee programme.<sup>31</sup> In **Italy** and the **United Kingdom** there are similar programmes for intra-company transfers.

**Sweden** has created programmes to recruit highly-skilled workers from other Member States. These programmes were joint efforts by the Swedish Employment Service, employers and other

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<sup>28</sup> Details available from: [http://www.workingintheuk.gov.uk/working\\_in\\_the\\_uk/en/homepage/schemes\\_and\\_programmes/hsmp.html](http://www.workingintheuk.gov.uk/working_in_the_uk/en/homepage/schemes_and_programmes/hsmp.html).

<sup>29</sup> <http://ec.europa.eu/eures/>

<sup>30</sup> The practice of issuing work permits to employers will change in 2007.

<sup>31</sup> The new employment permits scheme introduced in 2007 re-established the intra-company transfer scheme in **Ireland**, see Section 8.

labour market stakeholders. They were well-organised, with resources made available to support those who came to work in Sweden, such as assistance with accommodation, language courses and validation of qualifications. Currently, according to the Swedish Employment Service, there is no discernible shortage of highly-skilled labour and consequently there are no plans to introduce a recruitment programme. Individual employers who look for labour in third countries must follow the existing legislation for granting work permits.

With regard to bi- or multi-lateral agreements, there are none for **Germany** and **The Netherlands** specifically for third country highly-skilled workers, whilst various protocols, agreements and Memoranda of Understanding exist between the **United Kingdom** and specific countries in relation to the recruitment of highly-skilled workers in particular occupations, notably health and education. There are, however, no agreements with third countries involving other Member States. For some professions, notably the health sector, the **United Kingdom** has ethical recruitment guidelines, such as The Code of Practice for International Recruitment of Healthcare Professionals.<sup>32</sup> **Belgium** has concluded a bilateral agreement relating to social security with certain countries which entitles nationals of these countries to certain additional rights. Such privileges do not, however, arise from the fact that the worker concerned is highly-skilled or not, but from the existence of international agreements that aim to mitigate the disadvantages of migration for workers in general.

## 5. Rights and Obligations of Third Country Highly-Skilled Workers

Rights and obligations of third country highly-skilled workers vary among the majority of Member States and touch on different aspects. In **Estonia, Germany, Ireland, Italy, Latvia, Sweden** and **United Kingdom**, special regulations do not exist specifically for third country highly-skilled workers, but rather fall under the regulations applying to all foreign nationals for rights and entitlements in relation to family, social and health insurance, the taxation regime, access to education and settlement. In general, equal rights and equal treatment for third country nationals in the labour market is compulsory, and the same as for its own nationals. In **Austria**, anti-discrimination legislation provides the legal instrument for third country workers to bring an employer to court in cases of discrimination.

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<sup>32</sup> Further details may be found in the EMN's study on "Managed Migration and the Labour Market – The Health

In general, the main requirements for a permanent work permit for third country highly-skilled workers are to be an asset to the national labour market and the investment capital in the Member State (**Austria**), as well as to have confirmation of permanent employment (**Sweden**). In **Sweden**, before a work permit can be approved, the Trade Union in question is contacted by the County Labour Board (if a collective agreement exists) in order to confirm that the salary is in line with the collective agreement. If there is no collective agreement, the County Labour Board ensures that the salary offered does not fall under the lowest salary for the occupation in question and that the employer has the required insurance in order to avoid wage-dumping.

Normally, after five years of residence in the Member State, the highly-skilled worker has the right to apply for a long-term residence permit (**Belgium, Estonia, Greece, Latvia**), in accordance with Council directive 2003/109/EC on long-term residents, or is given a work permit with unlimited duration (**Ireland**).<sup>33</sup> As of 3<sup>rd</sup> April 2006, the qualifying period for permanent residence (or Indefinite Leave to Remain) in the **United Kingdom** was extended from four to five years. Also third country highly-skilled workers in the **United Kingdom** can apply to extend their stay or 'switch' between certain specified programmes of entry (e.g. from the Work Permit scheme to the HSMP), providing they meet the requirements set for each programme. In **Italy**, the long-term residence permit is issued – like for other third country workers - after five years of legal residence in the country when it becomes possible to maintain residence, even in cases of job loss. For some Member States (**Germany, Greece, Estonia, Ireland, Italy, Latvia, United Kingdom**), there is no special taxation regime for third country highly-skilled workers. By contrast, **Belgium** does have a special taxation regime for some managers and specialists of foreign companies or of Belgian companies that come under a foreign tax regime. The aim being to support the retention and expansion of investments and to stimulate exports by making Belgium more attractive for foreign investment. Similarly, in **The Netherlands**, a special cost reimbursement arrangement exists (the "30% rule") for highly-skilled workers from another country who have a specific expertise that is not available in the Dutch market or is very scarce.

Further rights, such as family reunification, are important to mention. The general right of third

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Sector" (ISBN 978-92-79-05519-5).

<sup>33</sup> Since **Ireland** is not bound by the provisions of Council Directive 2003/109/EC, they currently do not have long-term resident status. But it has been signalled that such a system will be provided for in the forthcoming Immigration, Residence and Protection legislation.

country highly-skilled workers to bring their family members is provided for by the Member States, but while certain professional groups<sup>34</sup> are allowed to apply immediately, others can only apply for family reunification after some years of legal stay providing that they have a stable and regular income (**Greece, Ireland**). In **Italy**, legislation permits relatives and family reunification to occur immediately, with permits issued also to family members upon taking up residence. For **Sweden**, the right to receive benefits is important, and is based on residence or gainful employment. These benefits, which apply from the first day of the employment period, include sickness pay and pregnancy cash benefit, parental benefit and temporary parental benefit, income-based sickness benefit and income-based activity compensation and rehabilitation allowance. Residents can also receive child allowance, housing allowance, a guaranteed pension, disability allowance and maintenance support. Other rights relate to the permission for a spouse to work (**Belgium, Germany, Ireland, Sweden, The Netherlands, United Kingdom**), regulations for voting in local government elections (**Estonia**) and the termination of employment contracts and the status of unemployment (**Greece, Latvia, The Netherlands**) as illustrated by the following examples. In the **United Kingdom**, dependants are also entitled to work (providing this is not to support the main applicant and there are no other restrictions placed on them), and they are also entitled to the same free education and health service as British citizens. In **Estonia**, third country nationals may vote in local government elections if they have a long-term permit and are permanent residents within the territory of the local government for which they are voting. In **The Netherlands**, if the employment contract is terminated early by the employer during the term of the residence permit, for reasons other than the performance of the third country highly-skilled worker, then a three-month job search period is allowed. If they are unable to find a position that meets the criteria for being defined as a highly-skilled migrant within this three-month period, then their residence permit will be revoked. In **Greece**, a third country highly-skilled worker is obliged to leave the Member State once their contract is terminated and they become unemployed.

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<sup>34</sup> For **Greece**: board members, managers and company staff, workers of public interest, members of archaeological schools and experts of firms established in EU or countries of the European Economic Area. For **Ireland**: information and computing professionals and technicians; architects, construction engineers, etc.

## 6. Experience with Third Country Highly-Skilled Workers

Varied outcomes are mentioned in the Member States regarding the success of attracting third country highly-skilled workers. **Estonia** and **Latvia** are unable to provide comprehensive information on more recent (i.e. since regaining independence) immigration and the collection of relevant data, although observations exist by the former on permission granted for highly-skilled immigration and to a slight increase in the number of third country workers. Both employers' organisations and trade unions in **Belgium** have given their opinions and recommendations on the rules and regulations for third country highly-skilled workers.

In the **United Kingdom**, anecdotal evidence from studies suggests that the current migration system is subjective and complex, requiring a new, simpler approach in the form of the new Points-Based System (as described in Section 8). Assessments were based solely on employers' opinions as research was not conducted on the problems and opinions of foreign workers. In addition, in a public consultation, 75% of the 500 respondents felt the system was too complex and bureaucratic. Because there has not been an evaluation across the whole of the current system, there is no conclusive evidence regarding its effectiveness in attracting the desired number and types of migrants.

In **The Netherlands**, evaluation and research on experiences with third country highly-skilled workers are scarce, partly due to the fact that legislation for this target group is relatively new and came into effect only at the end of 2004. The available data show that while several obstacles still occur in policy execution, solutions are sought in order to meet the needs of highly-skilled migrants. In fact, responses from companies and institutions that participated in an interim evaluation has shown that this new legislation to recruit international managers, researchers and IT staff is used, and the prevalent opinion is that it does improve the climate for the settlement of such workers.

Following the accession of the EU-10 Member States, in **Ireland**, the total number of work permits issued dropped, but the proportion of work permits renewed increased. Furthermore, since enlargement, a new policy of limiting, where possible, third country labour migration to workers in highly-skilled and/or highly-specialised occupations was implemented, and work visa/authorisation will be changed in 2007 with the entire system centralised (see Section 8). A

new statutory Office of the Director for Employment Rights Compliance (ODERC) will be established in part to address the exploitation of migrant workers.

For **Greece**, the economic need for additional highly-skilled workers is a topic of debate, highlighted by a number of arguments including the high unemployment rate, the limited number of vacancies that can be filled by highly-skilled foreigners, and the initial development of science and research, which does not attract third country highly-skilled workers. Furthermore, not only is the Greek language considered by many to discourage immigrants, but there are also strict rules regulating the recognition of diplomas obtained abroad. The demand for such permits in **Greece** is satisfied by an existing legislative framework since 2001, which facilitates the entry and stay of certain types of highly-skilled migrants. However, as yet, few have obtained such a permit.

A similar situation with regard to the recognition of educational qualifications exists in **Italy**, which is more detailed when the skill level is high, resulting in long and complex selection and job procedures, even if local government units and entrepreneurs' organisations are trying to simplify those procedures. Difficulties do not exist when degrees were obtained in Italy and also for this reason the institutions are developing student grant programmes with various third countries.

**Austria** registers more third country immigration in the medium- to lower-skill segment of the ISCO-88 groups, such as traditional trade or craft skills with limited career opportunities. The existing “insider-outsider”<sup>35</sup> problem prevents **Austria** from being an attractive destination for highly-skilled migrants (which were partly defined through salary level in Austria) because wages in general follow a pronounced seniority scale.<sup>36</sup> It also reduces the incentive for highly-skilled Austrian nationals to return because they would probably have to start again with a lower paying position. In **Belgium**, the number of highly-skilled permits has risen in the last years, although, the total number still remains very marginal in relation to the total workforce (0.08% in 2005), and in **The Netherlands**, although legislation on highly-skilled migrants has just come into force at the end of 2004, the number of the residence permits that have been issued for highly-skilled migrants has consistently risen in all labour fields. In **Germany**, detailed data on

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<sup>35</sup> An “insider-outsider” problem refers here to a labour market that has strong barriers to entry for new workers, while, at the same time, protecting workers who have been active longer in the labour market. Consequently, new workers (including youth or immigrants) generally have more restricted access to the labour market.

<sup>36</sup> This is especially true in large firms and the public sector.

migration for the purpose of taking up employment is collected since the new Immigration Act in 2005, although a detailed analysis of the development concerning highly-skilled workers is not yet possible. The only experience in the past was the Green Card initiative where fewer IT experts came to Germany than originally expected.

The importance of labour immigration generally, and highly-skilled specifically, highlights also the need for integration measures, some of which have been outlined previously in Section 3.3. Some Member States (**Sweden, United Kingdom** in particular) have focused on the needs of highly-skilled migrants by developing programmes to provide language courses, as well as, in the case of **Sweden**, healthcare service. These measures contribute to social cohesion by recognising the rights of third country highly-skilled workers. A study undertaken by the Immigrant Labour Market, Language Skill and Social Network project (ISAA) in **Sweden** found that the career progression of highly-skilled workers sometimes followed a "U-curve". That is, migrants with a high status occupation in their country of origin, would initially have a low status occupation upon migrating to Sweden and then, after some time, a raised occupational status. Those with high academic (university) education from their country of origin, were able to raise their occupational status to a more advanced level than those with lower or no academic (university) education. Migrants who obtained a high academic education in Sweden, or who developed their skills in the Swedish language, further improved their possibilities of obtaining a position that better corresponded to their position in their country of origin.

In **Germany, The Netherlands** and the **United Kingdom**, no particular encouragement is made for legally resident, highly-skilled migrants to return to their country of origin. In **Germany**, organisations like the CIM (Centre for International Migration and Development) support non-German professionals from developing and transition countries who are currently living in Germany and who wish to return to their respective countries of origin, whilst for the **United Kingdom**, "brain circulation", as opposed to "brain drain" is encouraged, since the value of remittances and global sharing of skills and experience is considered as a positive effect. One study has suggested that, although the majority of migrants intend to return home at the end of their stay, migrants from developing countries are more likely to want to settle permanently in the **United Kingdom**, in comparison to those from developed countries.<sup>37</sup> **Italy**, especially after the

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<sup>37</sup> (NOP Business/Institute for Employment Studies, 2002) *Knowledge Migrants. The motivations and experiences of professionals in the UK on Work Permits*. London: DTI/Home Office

2001 Census which seemed to confirm the findings of regional studies, has found that many third country workers, particularly low-skilled, are under-employed. This is considered to be as a result of the varying needs of the Italian labour market in various sectors (e.g. agriculture, building, family care); the mismatch between supply and demand; and the need for more directed training to better meet needs.

## 7. Data on Highly-Skilled Workers

### 7.1 Status and comparability of available data

While complete data are not available in every Member State in regard to third country highly-skilled workers, they do form an initial basis for comparison. The study sought to obtain data in two specific areas. The first compares the number of third country highly-skilled workers to the national, EU-15 and EU-10 or EEA totals, divided into the different ISCO major groupings. **Germany, Greece, Sweden and United Kingdom** were able to provide the complete data for each year (2000-2005 for Germany, Greece, United Kingdom and 2001-2004 for Sweden). Because the most recent statistics regarding highly-skilled employment in **Austria** date from the 2001 census, only data from that year is reproduced. **Ireland** supplied data on nationals from EU-10 Member States for 2005 only and as a result could only distinguish between Irish nationals, non EU-15 nationals and others in the years 2000-2004. Both **Estonia** and **Latvia** collected partial migration statistics before 2004 and, therefore, were unable to provide complete data in that regard. **Estonia** provided statistics in relation to ethnicity, which give a picture of how highly-skilled labour is segmented among the population, but can not yet give a complete account of all third country highly-skilled workers in the labour market. **Italy** also provides data regarding the annual demand for highly-skilled workers, from the Ministry of Labour Survey-Union of Commerce Chambers (available since 2001), plus from the databases of national insurance institutes and the stock of sectors of employment of its nationals, EU-15, EU-10+2 and third country workers. In **The Netherlands**, data are provided regarding the use of the highly-skilled "knowledge migrant" legislation.

The second area in which data were collected was the number of third country highly-skilled

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workers by country of origin and gender. **Austria, Germany, Greece, Sweden and United Kingdom** were able to provide these data using the ISCO-88 classifications. **Germany, Greece, Sweden and United Kingdom** provide data for the majority of the years involved (2000-2005 for Germany, Greece, United Kingdom and 2001-2004 for Sweden), while **Austria** again provides data for 2001 only and **Italy** global data for 2004-2006, without the possibility to specify the ISCO-88 classification, although this is given by employers when they declare their hiring forecasts, which, even if indirectly, gives an understanding of the annual occupational flows. Similarly, **Belgium** could provide yearly data on the number of labour permits issued to highly-skilled (and managers) non-EU nationals, broken down by nationality and region. A classification into the ISCO-88 Major Groups is not available, however, only the sector of employment is known. **Latvia and Estonia** were able to provide partial statistics, as the information was either not required to be collected for the period in question, or was not considered "official" statistics. Thus, whilst data do exist, it can not be considered as truly representative.

The time frame of the data collected also limits comparability. As the study looks at data prior to the accession date of the EU-10 in 2004, some Member States did not differentiate EU-10 from third country nationals. Consequently, prior to 2004, the data from **Ireland** treats highly-skilled workers from the EU-10 the same as third country highly-skilled workers. Therefore, in order to compare the data from **Ireland** with the data from **Austria, Germany, Sweden and Greece** before 2005, the categories of EU-10 and third country highly-skilled workers must be merged to create a non EU-15 highly-skilled worker category. Such a merger also reflects many programmes created by the Member States to encourage the immigration of highly-skilled workers from EU-10 (**Sweden**). Another aspect exists in **Italy**, where the distinction between national, EU-15, EU-10+2 and third country citizens is only possible for the total amount of employed workers, whilst appointment intentions refer to non-Italian nationals only in general terms. Consequently, because the existing data also has gaps, it is difficult to create a systematic comparison between Member States over the complete timeframe of the study. Nevertheless, 2001-2004 provides the richest range for comparison.

## 7.2 Summary of data

Despite the caveats to the data, and whilst it is not the purpose of this Synthesis Report to present again the available data, it is worthwhile to provide in the following [Table 2](#) at least an indication of the scale of the number of highly-skilled workers (broadly broken down by Member State nationals, other EU-nationals and third country nationals) and the number of vacancies (to indicate the current need) in order to provide some comparison between Member States. One should focus on the relative magnitudes as an indication or illustration of the situation with regard to highly-skilled workers in a particular Member State and how it compares to others. Some general comparative observations on these data are given here, but again note these are intended only to highlight certain aspects and the data given should not be taken as absolute.

For Legislators, Senior Officials and Managers (ISCO-88 Group 1), the proportion of other EU-nationals ranges from 2.5% for the **United Kingdom** (including also EEA nationals) to 4.2% for **Sweden**, being on average 3.3%. By contrast, for third country nationals, the corresponding range is 1.2% (for **Ireland**) to 3% (for **Austria**) being on average 2.3%. The corresponding percentage of non-nationals (including both EU- and third country nationals) for **Germany** is 3.4% and for **Greece** 2.6%, whilst the relatively high proportion of Russians (16.7%) in **Estonia** reflects that of its national population.

For Professionals (ISCO-88 Group 2), the proportion of other EU- and third country nationals is generally higher than for ISCO-88 Group 1, being on average 4.1% for other EU-nationals and 3.6% for third country nationals. This trend is reflected also in the data for **Estonia**, **Germany** and **Greece**. For Technicians and Associate Professionals (ISCO-88 Group 3) the corresponding averages are 3.3% for other EU-nationals and 2.8% for third country nationals, which is similar to that of Legislators, Senior Officials and Managers (ISCO-88 Group 1).

For those Member States with sufficiently comparable data, it appears that there is a higher proportion of other EU-nationals than for third country nationals for all three of these ISCO-88 Groups. The **United Kingdom** represents an exception, in that, for example for Professionals (ISCO-88 Group 2), it has a higher proportion (4.3%) of third country nationals than for other EU/EEA nationals (2.7%), this latter percentage representing also the lowest proportion when compared to the other Member States for which data are available.

| Member State                                      | ISCO-88 Classification (or nearest matching)                                    | Nationals | Non-Nationals  | Other EU-Nationals <sup>1</sup> | Third Country Nationals | Russian        | Other Ethnic Nationals | Total            | Vacancies    |
|---|---|-----------|----------------|---------------------------------|-------------------------|----------------|------------------------|------------------|--------------|
| <b>AUSTRIA<sup>2</sup></b><br>(Year: 2001)        | 1. Legislators, Senior Officials and Managers                                   | 294.528   | -              | 9.604 (3%)                      | 9.499 (3%)              | -              | -                      | <b>313.631</b>   | See Note 2   |
|   | 2. Professionals  | 289.367   | -              | 11.697 (3.8%)                   | 5.993 (2%)              | -              | -                      | <b>307.057</b>   | See Note 2   |
|   | 3. Technicians and Associate Professionals                                      | 671.272   | -              | 17.567 (2.5%)                   | 18.810 (2.7%)           | -              | -                      | <b>707.649</b>   | See Note 2   |
| <b>BELGIUM<sup>3</sup></b><br>(Average 1996-2002) | Labour Force Survey/Brussels Economic Review proportion of High Skill Structure | 93.5%     | -              | 5%                              | 1.4%                    | -              | -                      | -                | See Note 3   |
| <b>ESTONIA</b><br>(Year: 2000)                    | 1. Legislators, Senior Officials and Managers                                   | 52.411    | -              | -                               | -                       | 11.232 (16.7%) | 3.742 (5.6%)           | <b>67.385</b>    | 619 (0.9%)   |
|   | 2. Professionals  | 53.606    | -              | -                               | -                       | 13.031 (18.6%) | 3.392 (4.8%)           | <b>70.029</b>    | 1.106 (1.6%) |
|   | 3. Technicians and Associate Professionals                                      | 53.801    | -              | -                               | -                       | 15.437 (21%)   | 3.919 (5.4%)           | <b>73.157</b>    | 1.739 (2.4%) |
| <b>GERMANY<sup>4</sup></b>                        | 1. Legislators, Senior Officials and Managers                                   | 732.198   | 25.490 (3.4%)  | 14.514 (1.9%)                   | 10.690 (1.4%)           | -              | -                      | <b>757.688</b>   | 1.888 (0.3%) |
|   | 2. Professionals  | 1.695.972 | 87.988 (4.9%)  | 44.395 (2.5%)                   | 42.730 (2.4%)           | -              | -                      | <b>1.783.960</b> | 7.111 (0.4%) |
|   | 3. Technicians and Associate Professionals                                      | 2.955.914 | 104.581 (3.4%) | 42.842 (1.4%)                   | 60.721 (2.0%)           | -              | -                      | <b>3.060.495</b> | 8.208 (0.3%) |
| <b>GREECE<sup>5</sup></b>                         | 1. Legislators, Senior Officials and Managers                                   | 440.025   | 11.900 (2.6%)  | -                               | -                       | -              | -                      | <b>451.925</b>   | See Note 5   |
|   | 2. Professionals  | 589.865   | 19.107 (3.1%)  | -                               | -                       | -              | -                      | <b>608.972</b>   | See Note 5   |
|   | 3. Technicians and Associate Professionals                                      | 323.379   | 8.912 (2.7%)   | -                               | -                       | -              | -                      | <b>332.291</b>   | See Note 5   |
| <b>IRELAND<sup>6</sup></b>                        | 1. Legislators, Senior Officials and Managers                                   | 307.468   | -              | 10.785 (3.3%)                   | 3.721 (1.2%)            | -              | -                      | <b>321.973</b>   | See Note 6   |
|   | 2. Professionals  | 291.501   | -              | 14.672 (4.6%)                   | 10.549 (3.3%)           | -              | -                      | <b>316.722</b>   | See Note 6   |
|   | 3. Technicians and Associate Professionals                                      | 108.633   | -              | 4.857 (4.2%)                    | 2.088 (1.8%)            | -              | -                      | <b>115.578</b>   | See Note 6   |
| <b>ITALY<sup>7</sup></b>                          | 1. Managers and Directors   | -         | -              | -                               | 150                     | -              | -                      | See Note 7       | See Note 7   |
|   | 2. Intellectual, scientific and high specialisation                             | -         | -              | -                               | 2.760                   | -              | -                      | See Note 7       | See Note 7   |
|   | 3. Technical professions  | -         | -              | -                               | 10.350                  | -              | -                      | See Note 7       | See Note 7   |
| <b>LATVIA<sup>8</sup></b>                         | 1. Legislators, Senior Officials and Managers                                   | -         | -              | -                               | -                       | -              | -                      | <b>105.132</b>   | 765 (0.7%)   |
|   | 2. Professionals  | -         | -              | -                               | -                       | -              | -                      | <b>150.757</b>   | 1.569 (1%)   |
|   | 3. Technicians and Associate Professionals                                      | -         | -              | -                               | -                       | -              | -                      | <b>105.926</b>   | 3.030 (2.9%) |

| Member State                 | ISCO-88 Classification (or nearest matching)  | Nationals | Non-Nationals | Other EU-Nationals <sup>1</sup> | Third Country Nationals | Russian | Other Ethnic Nationals | Total            | Vacancies        |
|------------------------------|---|-----------|---------------|---------------------------------|-------------------------|---------|------------------------|------------------|------------------|
| SWEDEN                       | 1. Legislators, Senior Officials and Managers | 254.241   | -             | 11.120 (4.2%)                   | 6.713 (2.5%)            | -       | -                      | <b>265.361</b>   | 284 (0.1%)       |
|                              | 2. Professionals                              | 691.125   | -             | 38.473 (5.3%)                   | 33.199 (4.6%)           | -       | -                      | <b>729.598</b>   | 2.286 (0.3%)     |
|                              | 3. Technicians and Associate Professionals    | 782.041   | -             | 37.274 (4.5%)                   | 27.293 (3.3%)           | -       | -                      | <b>819.315</b>   | 2.468 (0.3%)     |
| THE NETHERLANDS <sup>9</sup> | 1. Legislators, Senior Officials and Managers | -         | -             | -                               | -                       | -       | -                      | <b>751.000</b>   | 6.000 (in 2003)  |
|                              | 2. Professionals                              | -         | -             | -                               | -                       | -       | -                      | <b>1.509.000</b> | 15.900 (in 2003) |
|                              | 3. Technicians and Associate Professionals    | -         | -             | -                               | -                       | -       | -                      | <b>1.431.000</b> | 18.600 (in 2003) |
| UNITED KINGDOM <sup>10</sup> | 1. Legislators, Senior Officials and Managers | 4.069.970 | -             | 105.852 (2.5%)                  | 106.985 (2.5%)          | -       | -                      | <b>4.282.807</b> | See Note 10      |
|                              | 2. Professionals                              | 3.314.814 | -             | 96.115 (2.7%)                   | 153.514 (4.3%)          | -       | -                      | <b>3.564.443</b> | See Note 10      |
|                              | 3. Technicians and Associate Professionals    | 3.719.734 | -             | 80.229 (2.0%)                   | 134.279 (3.4%)          | -       | -                      | <b>3.934.242</b> | See Note 10      |

**Table 2: Indicative overview of highly-skilled workers and vacancies in the Member States (Reference Year: 2004, unless stated otherwise)**

Notes:

- Note that "Other EU Nationals" includes the other EU-24 Member States, but not Bulgaria or Romania which, for the purpose of this study, are considered as "Third Country Nationals". For the **United Kingdom**, "Other EU-Nationals" includes both other EU-nationals as well as from EEA countries (Norway, Iceland and Liechtenstein). All percentages given are with reference to the Total.
- For **Austria**, only the Public Employment Service (AMS) has data on vacancies at its disposal. However, this is not a good indicator for highly-skilled labour scarcities, as employers tend not to notify their job openings to the AMS.
- For **Belgium**, High Skill is as defined in Table 1, and data also includes Managers. For Other EU- and Third Country Nationals, these data include also recent immigrants with less than 11 years of residence in Belgium. In 2004, a total of 6512 work permits were issued to highly-qualified workers and managers.
- For **Germany**, data provided is on the basis of employees subject to social contributions. "Non-nationals" includes both other EU- and third country nationals.
- For **Greece**, there are no data available on vacancies/needs.
- For **Ireland**, there are no data available on vacancies/future needs using the ISCO-88 Groupings.
- For **Italy**, only data relating to third country nationals and obtained by the Ministry of Labour-Union of Commerce Chambers Survey 2005 (Excelsior Programme) are given in their Country Study (see also comments in Section 2: Methodology). The total for 2. Intellectual, scientific and high specialisation, includes 910 (33%) data processing programmers and 280 (10%) data processing analysts. For 3. Technical professions, 2.700 (26%) are professional nurses, 1.800 (17.4%) are Administration technicians, accountants and other similar skills, and 830 (8%) are Sales agents and commerce representatives. As also explained in Section 2, vacancies are assessed on the basis of need as expressed by employers.
- For **Latvia**, it is not possible to breakdown the data further by nationality. However, the number of non-nationals is relatively low with, in 2004, 3.717 Work Permits issued and 647 third country nationals took up positions in industry.
- For **The Netherlands**, it is not possible to breakdown the data further by nationality and thus includes also Dutch nationals.
- For **United Kingdom**, estimates of the number of vacancies for the period 2004-2014 are 2.287.000 for ISCO-88 Group 1; 2.007.000 in Group 2 and 1.900.000 in Group 3 (Source: Wilson et al (2006) Working Futures 2004-2014. A national report by the Institute of Employment Research for the Sector Skills Development Agency).

With regard to vacancies, and where data are available, it is notable that the largest numbers in 2004 were for Professionals, ranging from 1.106 up to 7.111, and for Technicians and Associate Professionals, ranging from 1.739 up to 8.208, for **Estonia** and **Germany** respectively. The corresponding data for Legislators, Senior Officials and Managers ranges from 284 for **Sweden** to 1.888 for **Germany**. With reference to the Total in each ISCO-88 Group, the higher percentages for Estonia and Latvia (ranging from 0.9% to 2.9%) relative to the other Member States (0.3% on average) reflects, in some way, the previously described effect of emigration of its nationals. The estimates of the number of vacancies for the period 2004-2014 provided for the **United Kingdom** (see Note 10 of Table 2), provides a useful indication of how the needs for highly-skilled workers could evolve, particularly for other larger Member States.

## 8. Policy initiatives

Given that each Country Study covered the period up to July 2006, and in order for this Synthesis Report to be as topical as possible, an overview of more recent policy initiatives is now given. Because of this, for some Member States the information presented below is in addition to that found in their Country Study.

In January 2007, a new Employment Permits Scheme was introduced in **Ireland** that significantly altered the system of highly-skilled labour migration. The previously described visa/authorisations system was the closest equivalent to a highly-skilled labour migration scheme in Ireland prior to 2007. This scheme was a response to specific skills shortages, whereas the newly introduced green card system is a more strategic, long-term policy development. It is the first complete highly-skilled labour migration scheme in Ireland. The green card applies to an extensive list of occupations with annual salaries of €60,000 and above, and for a more limited list of occupations with lower salaries. Improved incentives are being offered to attract the potential green card holder. For example, the cards will be issued for two years initially and will normally lead to the granting of permanent or long-term residence. No labour market test is required before making an application for the permit, although green cards will only be issued to individuals with job offers. An intra-company transfer permits scheme has been reintroduced and a limited revised work permit scheme will be available to lower skilled, and lower paid workers. This new employment permits system further develops Ireland's policy of limiting non-EU/EEA

labour migration to areas of skills or labour shortages that cannot be met from within the EU.

In August 2006 the Government of **Estonia** assigned the Ministry of Economic Affairs and Communication to create a Working Group, consisting of representatives from the Ministry of Economic Affairs and Communication, Ministry of the Interior, Ministry of Foreign Affairs, Ministry of Education and Research, Minister of Population, Estonian Employer's Confederation, Confederation of Estonian Trade Unions, Estonian Chamber of Commerce and Industry, State Chancellery and Tartu University. Its task was to produce proposals on how to simplify and shorten the process of work permit application. In January 2007, this Working Group proposed that for the short-term employment (up to six months) of a third country highly-skilled worker, the wage criteria should be used - at least the average salary of that sector of economy should be paid. For longer-term residence and work permit, such a worker should receive at least 1.24 times the Estonian average salary.

A similar exercise was also undertaken in **Latvia**, which recently published, on 18<sup>th</sup> January 2007, "The Migration Policy Concept in the Context of Employment", by a Working Group established by the Prime Minister including representatives of many ministries, as well as the representatives of the Employer's Confederation of Latvia and Free Trade Union Confederation of Latvia. The objective was to make an assessment of the necessity to facilitate the admission of third country nationals for the purpose of employment and elaboration of possible solutions for the increase of labour supply in the situation when a significant labour shortage, which affects economic development, is established. Several proposals for improvement of the current situation are proposed, notably to address the existing situation by simplifying the administrative procedures for admission of labour migrants from third countries.

In **Italy**, in 2006, the new Government has submitted a migration law reform programme for wide public consultation, organising meetings and debates in every region. With regard to the labour market, the most important innovation could be the introduction, beyond the nominal notification, of entry under guarantee (by an institution, an employer or a single citizen) and also the possibility to search for available employment. Experience suggests not creating an excessive differentiation between the entry mechanisms for the majority of skilled workers and for highly-skilled workers, because the need for both remains important and because, in both cases, it is considered more effective to issue permission to search for employment.

Since a third country highly-skilled worker (or "knowledge migrant") in **The Netherlands** is defined on the basis of salary, this means that migrants who can contribute to the (economic) innovative ability, but who are unable to meet the salary criterion, are excluded from residence. Therefore, it has to be seen whether additional regulations have to come into force, next to the demand-driven system, in order to attract target groups that can optimise the knowledge climate, but who are not yet covered by the current legislation.

A parliamentary committee for labour migration was appointed in 2004 in **Sweden** with the assignment to propose a new regulatory framework for labour migration from countries outside the EU/EEA and Switzerland. The final Committee Report was submitted to the Government on 18<sup>th</sup> October 2006.<sup>38</sup> Whilst there is currently no widespread labour shortage in Sweden, it was concluded that regulations need to be adapted for a scenario with possible future shortages. The Committee suggested that it should be possible to obtain a temporary residence- and work permit– with an initial duration of 24 months. The permit can be extended by a maximum of 24 additional months. After 48 months, a permanent residence permit is normally granted. The precondition for a third country national to be granted a work permit is that the vacancy can not be filled by anyone already residing in Sweden or with admission to the Swedish labour market. The Committee also proposed that it should be possible to grant a visa to a third country national for a period of three months for the purpose of seeking employment in Sweden, if the person has competencies of which there is an explicit shortage in the country. The proposal also facilitates the entry into the labour market of foreign guest students. The Committee considered that labour migration should continue to be regulated and focus on the needs for manpower expressed as labour shortages. With this, the risks of pushing out already available manpower, or the unemployed, will be minimised. Also, a regulated labour migration will enable control of wages and conditions of labour migrants to ensure that these are in line with wages and conditions offered to others with similar work. It was also stated that the labour market consideration is fundamental to the current system of permit consideration, i.e. in determining whether there is labour shortage, and that agency-based labour market consideration should be retained.

The current immigration rules in the **United Kingdom** are in the process of amendment,<sup>39</sup> since,

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<sup>38</sup> Arbetskraftsinvandringen till Sverige – förslag och konsekvenser (SOU 2006:87).

<sup>39</sup> 'Controlling Our Borders: Making Migration Work for Britain', February 2005, available from <http://www.archive2.official-documents.co.uk/document/cm64/6472/6472.pdf>.

because of the piecemeal way in which they have developed, it is difficult to know whether the system is delivering the migrants this Member State wants and needs. Particular emphasis is being placed on highly-skilled workers, as part of its Points-Based System (PBS). The PBS will comprise of five tiers, and potential migrants will need to satisfy a certain amount of points at each tier to qualify for entry. Highly-skilled workers will be able to enter either through Tier 1 (without requiring a job offer) or Tier 2 (with a job offer). The new provisions will replace all routes to work, train or study, except for a small number of specific routes including business visitors and routes involving international agreements. Its aim is to better identify and attract migrants who have the most to contribute to the United Kingdom; to have a simpler, more efficient, transparent and objective application process; and improve compliance and reduce scope for abuse of the system.

## 9. Concluding Remarks

This European Migration Network (EMN) study on the conditions of entry and residence of third country highly-skilled workers in the EU serves to illustrate the current situation in the participating Member States, as well as to identify the need for a more consistent approach to the collection of relevant data (e.g. comparable information across all entry routes (**United Kingdom**)). As outlined in the Methodology, data on highly-skilled migrants is limited in some Member States (**Estonia, Greece, Italy, The Netherlands, Latvia**), is more comprehensively provided as a forecast rather than actual appointments (**Italy**), and often distributed across several sources (**Belgium**) or not collected on all aspects of migration (e.g. length of migrant stay and destination country following departure (**United Kingdom**)). Not only do national offices and governments not collect data specifically on highly-skilled migration, but terms and definitions are not consistent within Member States and across the EU. This is either a consequence of, or a contributor towards, lack of co-operation among agencies dealing with migrants. Given the anticipated increasing importance of the contribution of highly-skilled migrants across the EU, it would, therefore, seem appropriate that future data collection methods are improved, to ensure comparability between Member States.

Whilst the aim was to use the ISCO-88 classifications to define "highly-skilled" it is clear that, in practice, the definition used in the Member States differs, but is broadly-based on level of salary

and/or educational qualifications and/or specific sectors or occupations. Given this, and in order to support any development of comparable data collection, another consideration could be the development of a consistent definition. Since the current definitions tend to concentrate on prerequisites before taking up an appointment, the approach taken for this study (i.e. on the basis of the ISCO-88 classifications) might enable better comparability, since it is based more on the position held. Given that this is the approach followed by EUROSTAT also, it might be more likely for national statistical offices to extend the provision of this type of data to also include a migration aspect.

As one might expect, there are differences among Member States in terms of the relevance of highly-skilled labour migration to their labour markets. Highly-skilled labour emigration is more of a concern in **Estonia** and **Latvia**, and, to some extent, in **Austria**, whereas in **Belgium**, **Greece** and **Sweden**, more emphasis is put on reducing national unemployment rates, and attempts to fill the labour market are made from within the Member State, rather than international recruitment. Immigration of highly-qualified workers to **Germany** is currently high on the agenda in the public discourse. Experts assume that the need for highly-qualified workers, which can already be observed in some sectors, will continue to rise in the years to come. Whereas the unemployment rate is generally high, the job situation for highly-qualified experts and executive personnel is relatively good and the corresponding labour market is balanced. Highly-skilled labour migration to **Ireland** has been managed with more interventionist policies and legislation since 2003, due in part to the significant increase in the number of EU and non-EU nationals moving to Ireland since 2000, which increased further after the accession of EU-10 Member States in 2004. Recent developments in 2007 have further refined the management of highly-skilled migration. In **The Netherlands**, new legislation has recently come into effect to attract highly-skilled workers. In **Italy**, the economy links highly-skilled sectors to low- and medium-skilled sectors and a growing number of third country workers are required in all sectors. However, companies prefer to select, for the more qualified positions, third country workers already established in Italy and who have demonstrable experience in being an effective employee. For this reason, it is considered appropriate that any new legislation that plans to implement the recruitment procedures for specific skill areas takes this aspect into account.

Legislating on highly-skilled migration policies is an ongoing process. In some Member States, there is no recognised need for highly-skilled migration legislation, and attention is focused

instead on wider labour migration legislation (**Estonia, Latvia**). In other Member States, legislation is currently being developed to address the specific needs of highly-skilled labour immigration and migrants, or has recently been developed (**The Netherlands**). This legislation focuses on offering “green cards” to sought after highly-skilled workers (**Ireland**), to taking away previous obstacles and introducing an accelerated procedure in order to attract the target group (**The Netherlands**), or producing a regulatory framework to allow for extended labour immigration from third countries (**Sweden**). The lack of fixed European legislation for highly-skilled immigration highlights the importance of this study, as comparable information is necessary to address this need in the future.

Another issue highlighted is the general desire to reduce the need and dependency on highly-skilled migrant labour by training the national workforce. For **Austria**, this will necessitate the development of a system of lifelong learning, in order to adapt the skills base of the national workforce and increase productivity. Similarly, the **United Kingdom** has initiatives to improve the flow of better skilled young British nationals into the job market, as well as the skills of its working national adult population, but it is acknowledged that this will not immediately resolve the current skills shortages and third country highly-skilled workers are likely to continue to play a role in tackling these issues. In **Latvia**, there is an eagerness to create a larger workforce to keep pace with the rapid growth of the economy, and it is hoped to meet this by attracting highly-skilled labour migrants in specific industries. Paradoxically, **Italy** links the needs for highly-skilled workers to the emigration of its national highly-skilled workforce. Owing, in some part, to the limited highly-skilled positions available in Italy itself, it has been found that a significant number of nationals who leave Italy tend to be highly-qualified.

Another aspect of highly-skilled immigration is that it should not encourage wage dumping of national workers and of wages in general (**Austria, Ireland, Sweden**). Accordingly, in the Member States overall, highly-skilled labour immigration is considered to be mainly to fill skill gaps, rather than to provide opportunities for cheap labour.

Finally, some views have been expressed with regard to the development of a proposed directive to facilitate the entry of third country highly-skilled workers to the EU. The Department of Enterprise, Trade and Employment in **Ireland** considers that, while a European-wide system for certain types of labour migration may be implemented, labour migration policy development

should remain a matter for Member States. One reason put forward for this position was the different labour market situations, especially unemployment rates prevalent in different Member States. Similarly, the **United Kingdom** Government considers that, given the differing labour market needs, migration systems and definitions of highly-skilled across the EU, it is likely to be difficult to generate harmonised arrangements acceptable to all Member States. Rather than focussing on the establishment of such an EU regulation, a sharing of best practice and developing common principles across the EU to encourage the future migration of third country highly-skilled workers would be welcomed. The Federal Government of **Germany** has expressed its agreement with the Commission on the point that inflows of highly-skilled workers on the labour markets of Member States should be regulated flexibly and unbureaucratically. However, it considers that inflows of migration on national labour markets constitute a politically highly sensitive issue, making it necessary to leave some scope for regulation by individual Member States. **The Netherlands** also supports the view that a common employment migration policy can contribute to improved control of the migration flows, in particular one that would maximise the positive effects of employment migration for the EU as a whole, counteract the negative spill-over effects between Member States and jointly combat illegal immigration or illegal employment. Nonetheless, migration must not be a starting point for remedying the problem of the ageing of the workforce. **Italy**, probably like for other Mediterranean Member States, has an interest in a Community law for the entry of third country highly skilled workers, but without neglecting low-skilled workers, for which there is also a significant need, likewise in **Greece**.

This study has served to demonstrate how the European Migration Network can bring together information on the current situation/policy/practice in the Member States on a particular topic, in a relatively succinct and comparative way. It is hoped that it goes some way to meet the objective to provide support for policy- and decision-makers in the EU, as well for other relevant stakeholders.