



European Migration Network

Ad-Hoc Query on Admission system for labour migration purposes

Requested by ES EMN NCP on 3rd November 2009

Compilation produced on 22nd December 2009

Responses from AT, DE, ES, FR, GR, LT, LV, NL, PT, SE, SI, SK, UK (13 in Total)

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1. Background Information

Spain is currently revising its Organic Law 4/2000 on rights and liberties of foreigners in Spain and their social integration. In this context we would be interested in information about the systems other Member States are using in order to identify shortages in their labour market and their connection with the deliverance of residence and work permits.


2. Responses¹

		Wider Dissemination? ²	Q1.- Does your country have an admission system for third country nationals for labour migration purposes? If yes, please state the relevant piece(s) of legislation regulating this system
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¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A clear "YES", your response may be circulated further (i.e. to national network members) or "NO" should be added here. In case of "NO", then the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However they have requested that it is not disseminated further."

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			<p>Q2.- How does your country identify the occupations or sectors where there is a need for foreign workforce?</p> <p>Q3.- Is there a direct link between the identification of labour shortages in specific occupations and sectors and the possibility of hiring foreign workforce? If not, please state the relevant Department or institution which has to take the decision about in which cases it is possible to hire foreign workforce, and on what grounds the decision is taken.</p> <p>Q4.- Does your country have a specific managed migration scheme? In case it has, please state with which countries and if it covers seasonal workers (up to 9 months), permanent workers (1 year or more) or both. Please state also roughly the average number of third country national workers that arrive yearly on the basis of the scheme.</p> <p>Q5.- Has the economic downturn affected in your country the number of occupation or labour shortages and the arrival of workers who are third country nationals?</p>
	Germany	Yes	<p>Q1.- Does your country have an admission system for third country nationals for labour migration purposes? If yes, please state the relevant piece(s) of legislation regulating this system.</p> <p>The "Act governing the Residence, Gainful Employment and Integration of Aliens in the Federal Territory"³ allows and regulates immigration taking (also) into consideration the interests of the Federal Republic of Germany with regards to the economy and the labour market (please see § 1 par. 1 AufenthG¹).</p> <p>In chapter 2, the Entry of and Residence in the Federal Territory, § 4, paragraph 2 and 3 AufenthG¹, the basic requirements to obtain a residence title in order to carry out gainful employment are defined as well as the extent of such employment which is to be specified in the residence title. Section 3 regulates the residence for educational purposes including vocational training, on-the-job training, and further education within a company (§§ 16, 17 AufenthG¹). Section 4 covers the residence for the purpose of performing gainful employment on a self-employed or employed basis (§§ 18 to 21 AufenthG¹).</p> <p>Chapter 2, section 8, defines the participation of the German Federal Employment Agency through the German Public Authority Responsible for Aliens and prescribes an assessment of the labour market (priority assessment, working conditions, the impact on the labour market and the integration policies) as a basic principle. For specification purposes, the issuance of possible further statutory regulations is announced and reference is made to possible interstate agreements (§§ 39 to 42 AufenthG¹).</p> <p>Other statutory regulations in accordance with § 42 AufenthG¹ are the "Regulation Governing the Admission of Aliens Entering the Country for the First Time for Reasons of Gainful Employment"⁴ and the "Act on the Procedure and Authorisation for the Gainful Employment of Aliens already Resident in the Country"⁵. The German Employment Act regulates the type of employment for which the approval of the German Federal Employment Agency is required in order to obtain a residence title and to which extent it is necessary to carry out an assessment of the labour market. The German Employment Procedure Act regulates the access of aliens to the labour market</p>

³ German Residence Act ; abbreviation: AufenthG = Aufenthaltsgesetz

⁴ German Employment Act; abbreviation: BeschV - Beschäftigungsverordnung

⁵ German Employment Procedure Act ; abbreviation: BeschVerfV – Beschäftigungsverfahrensverordnung

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		<p>who are already resident in Germany in accordance with their residence status and residence duration. A special regulation for the gainful employment of asylum applicants is regulated by the German Asylum Procedure Law (§ 61 AsylVfG⁶).</p> <p>Bilateral agreements for individual occupational categories as well as agreements for the mobility of labour concluded with Switzerland and for the development of relationships concluded with Turkey which are regulated by EU-Law are to be taken into consideration as interstate agreements within the above-mentioned meaning.</p> <p>Independently from such agreements, certain residence titles which are granted for other residence purposes than those of gainful employment, impart directly by act of law the right to carrying out gainful employment. This permission is granted either in the form of an unlimited access to the labour market (e.g. in the case of unlimited residence titles in accordance with § 9 par. 1 clause 2 or § 9a par. 1 clause 2 AufenthG¹ respectively, or in the case of a family unification with German citizens according to § 28 par. 5 AufenthG¹), or in the form of a derived and limited type of employment (e.g. in case of a family unification with alien citizens according to § 29 par. 5 AufenthG¹).</p> <p>For the implementation of the conditional admission for gainful employment, the German Residence Act (§ 95 par. 1 a and § 98 par 3 no. 1 AufenthG¹) as well as the Social Security Code (§404 par. 2 no. 3 and 4, SGB⁷ 3) and the "Act on Fighting Clandestine Employment and Illegal Employment" (§§ 8 to 11 SchwarzArbG⁸) provides for fines and penal provisions for alien employees and their employers.</p> <p>Q2.- How does your country identify the occupations or sectors where there is a need for foreign workforce?</p> <p>For this purpose, the "Alliance for Advising the German Federal Government in Terms of the Need for Work Forces" was established and began its work early in 2009. Results are not yet available. Other sources of information are the statistics compiled by the German Federal Employment Agency as well as the reports compiled by companies and entrepreneurs' and trade associations.</p> <p>Q3.- Is there a direct link between the identification of labour shortages in specific occupations and sectors and the possibility of hiring foreign workforce? If not, please state the relevant Department or institution which has to take the decision about in which cases it is possible to hire foreign workforce, and on what grounds the decision is taken.</p> <p>There is an indirect link, as generally speaking, the priority principle is to be applied, i.e. in most cases (please see reply to question 1) an assessment is carried out to establish whether a German citizen or a EU citizen can be available for the position and, therefore, must be given priority. In specific sectors with a workforce shortage, the probability is high that this shall not apply.</p> <p>Q4.- Does your country have a specific managed migration scheme? In case it has, please state with which countries and if it covers seasonal workers (up to 9 months), permanent workers (1 year or more) or both. Please state also roughly the average number of third country national workers that arrive yearly on the basis of the scheme.</p> <p>Für Werkvertrags- und Saisonarbeitnehmer gibt es gesonderte Bestimmungen.</p> <p>There are separate regulations for seasonal and contract migrant workers:</p> <p>a) Contract migrant workers are employees of companies having their place of business abroad who are allowed to work in Germany on</p>
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⁶ German Asylum Procedure Law; abbreviation: AsylVfG - Asylverfahrensgesetz


⁷ German Social Security Code; abbreviation: SGB – Sozialgesetzbuch

⁸ Act on Fighting Clandestine Employment and Illegal Employment; abbreviation: SchwarzArbG - Schwarzarbeitsbekämpfungsgesetz


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			<p>the basis of a contract for work and labour. The basis for such regulations are bilateral governmental agreements (the so-called Agreement on Contract Migrant Workers) concluded with Central and Eastern European Countries (Bosnia-Herzegovina, Bulgaria, Croatia, Czech Republic, Slovakia, Serbia (including the Republics of Montenegro and the Kosovo), Latvia, Macedonia, Poland, Romania, Slovenia, Hungary and Turkey. These interstate agreements include employment quotas which are adjusted year by year on the basis of the unemployment figures of any one year. The latter are ascertained on June 30 of any current year. For each percentage point by which the unemployment figures increase or decrease, the employment quotas are either increased or reduced by 5%. The quotas determined in such a way partially include sub-quotas for specific sectors, e.g. for the construction sector.</p> <p>This means that employees coming from contracting states are allowed to work in Germany for a period of up to two years, in exceptional cases up to three or four years. After the end of the scheduled duration of the employment, a period of residence in the home country is required which is to be equal to the total duration period of any former residence title in order to be permitted to return as a contract migrant worker. This period, however, comprises two years at the most. For contract migrant workers who beforehand have not worked for more than nine months in the Federal Territory, such a period runs for a maximum of three months. For Central and Eastern European states which entered the EU on May 1, 2004, the agreements covering contract migrant workers are only important in sectors where the free movement of services is limited by temporary regulations. This applies especially to the construction sector.</p> <p>Number of contract migrant workers in 2007: 17,964.</p> <p>b) Seasonal workers can be employed in Germany for up to four months a year. This regulation applies to workers in the sectors agriculture and forestry, in the hotel and catering industry, in the fruit and vegetable processing sector and in the saw mills. Each company is allowed to employ alien seasonal workers. The individual business shall be permitted a quota equivalent to 80% of the 2005 admission quota without having to carry out an assessment of the possibilities for any of the in-country employees to be placed in such employment. Further admissions are only granted if an in-country employee cannot be found for the position. Even with further admission, the total number of alien seasonal workers may not exceed 90% of the 2005 admissions. The rest of the workforce, which is equivalent to 10%, must be satisfied with applicants coming from the in-country labour market (the so-called "80:10:10-regulation"). The limitation of 90% of the 2005 admissions does not include the so-called small businesses which continue to be permitted the employment of up to four alien seasonal workers.</p> <p>Number of seasonal workers in 2007: 299,657.</p> <p>Q5.- Has the economic downturn affected in your country the number of occupation or labour shortages and the arrival of workers who are third country nationals?</p> <p>The number of the unemployed (Germans as well as aliens) has experienced a slight increase. Hitherto, the labour migration from third countries has dropped only slightly in comparison with the figures from last year while the immigration for the purpose of family unification has risen.</p> <p> Adobe Acrobat Document</p>
	Greece	Yes	1. In Greece, if employers want to hire TCNs from abroad they must follow the procedure of invitation. The basic principles of this



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			<p>procedure are described in the article 14 of Law 3386/2005 and the explicit description is given by the Joint Ministerial Decision no 16632/08.</p> <p>According to the current legislation, there are three cases that someone can invite TCNs a) for dependent employment b) for seasonal employment and c) as fishery workers. Each year, employers who want to invite TCNs as employees of the above mentioned categories for the next year, submit an application to the Municipality of their residence or of the company headquarters describing exactly the job position (i.e. household cleaner), the number of TCNs they want to hire as well as their citizenship. In each Region there is a Committee which is responsible for the approval of the applications taking into consideration that the specific job positions cannot be covered by Greek citizens, EU citizens or TCNs already residing legally in Greece. Manpower Employment Organization is responsible to confirm the shortage in domestic labour force. At the end of each year, a Joint Ministerial Decision is issued which includes the approved job positions in each Region for the following year. After the issuance of the Joint Ministerial Decision, employers, whose application has been approved, submit a new application declaring the name of the TCN who want to invite. After that TCNs are granted a special visa for one of the above mentioned categories. Since they enter the country they submit an application for residence permit. The residence permits for dependent activity are valid for one year and they are renewed for two years, the permits for seasonal employment are valid for six month without renewal right while the validity period of permits of fishery workers is up to 10 months and they cannot be renewed.</p> <p>2. Job vacancies are identified based on the applications submitted by employers and the confirmation of the shortage in domestic labour force by Manpower Employment Organization. (see Q1).</p> <p>3. Yes, as it is described above.</p> <p>4. Greece does not have a specific managed migration scheme but it has ratified bilateral agreements with the Republic of Albania and the Arab Republic of Egypt. The bilateral agreement with Albania concerns seasonal employment. The residence permit is valid up to six months in total per calendar year and the employees are employed mostly in agricultural economy as workers of land and livestock workers. The bilateral agreement with Egypt concerns the paid employment and especially the employment of Egyptians fishery workers in Greek fishing vessels. The validity period of the relevant residence permit is up to ten months per year.</p> <p>5. Over the last years, a decrease in the number of third country nationals invited for the purposes of employment is being observed. The number of jobs to be covered under the above procedure for the current year amounts to 26.260, with 3.531 jobs concerning dependent works, 20.032 the seasonal employment and 2.697 the fishermen.</p> <p>The decrease – almost 30%-observed in relation to 2008 is partly due to the removal of transitional provisions on the access to the labor market of nationals from Bulgaria and Romania (not registered as third country nationals) and to the economic crisis, the effects of which can not be assessed yet.</p>
	Spain	Yes	<p>Q1.- The admission system is regulated mainly in Organic Law 4/2000, article 36, and in the correspondent Regulation 2393/2004, articles 49-54.</p>

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			<p>Q2.- There are two main mechanisms. The first one is the Catalogue of Shortage Occupations, which is set up every three months by the Public Employment Service, in consultation with trade unions and employer organizations. It is based on statistics about job offers which could not be filled by the Employment Services. The shortage occupations are identified by province. Once identified that there is a certain occupation in a certain province in a given period where there is labour shortage, it is possible to hire a third country national from abroad, provided that other criteria for a work and residence permit are met (labour contract, not illegally present in Spain, no entry prohibition to the Schengen area, no criminal record, etc.) The second mechanism consists in posting a job offer at the Public Employment Services. If these services are unable to propose any suitable candidate for the job, they issue a certification about it, which in turn allows to hire a third country national from abroad for the same job and under the conditions posted. If a residence and work permit is issued, it is valid for one year and restricted to the province and the occupation requested. Its validity is conditional on the fact of registering the foreign worker with the Social Security system.</p> <p>Q3.- There is a direct link between the identification of shortages and the possibility of hiring foreign workforce (see under Question 2)</p> <p>Q4.- Yes. The managed migration scheme is called Contingente Anual (Yearly Contingent), and it is used mainly for enterprises who want to hire groups of workers in shortage occupations. It covers both seasonal and permanent workers, although the number of seasonal workers is much higher. The scheme is based on cooperation agreements with countries of origin (main countries are Colombia, Ecuador, Morocco). It comprises joint recruitment in the country of origin, in partnership with its employment services; predeparture information about working conditions, working location, salary, labour guarantees, information about rights and responsibilities according; accelerated procedure work permit and visa procedures, reception in Spain. The number of workers that arrive in Spain through this particular procedure varies a lot from year to year, but roughly speaking it could be stated that it amounts to 50.000 workers a year, the vast majority of which are seasonal workers.</p> <p>Q5.- Yes, the number of shortage occupations has decreased dramatically during the last and the present year. For the same reason, the number of workers who reached Spain through the general system or within the managed migration scheme was very low, when compared to previous years</p>
	France	Yes	<p>Q1. In most cases, the principle of community preference prevails; vacant positions must be supplied by national or EU workforce (plus countries of the European Economic Space and Switzerland) or by non-EU workforce who lives permanently and legally in a Member State. But if there is a need for specific occupations that can not be supplied, then a third-country national can apply for this specific job. In that case, the third-country national must be granted by the DDTEFP (Department for Work, Employment and Professional Training) a work permit (<i>Labour Code, article. R. 5221-11</i>). The application for work permit must be addressed to the DDTEFP of the area where the wage earner will work or where the employer is domiciled. The employer must initiate the procedure.</p> <p>Since 2006, priority is given to professional immigration, notably with the “competences and talents” card (<i>CESEDA Article L 315-1</i>), and the Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment. This Directive aims at reducing workforce shortages by promoting the admission and mobility of third-country nationals who would stay over three months.</p> <p>Q2. France identifies the occupations or sectors where there is a need for foreign workforce by elaborating lists of occupations available for EU nationals and third-country nationals. In the <i>Circular dated December 20th 2007</i>, these two lists take inventory of occupations faced with difficulties of recruitment</p>


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			<p>(150 occupations for EU nationals and only 30 for third-country nationals). This circular has been completed by an order dated January 18th 2008 that allows Bulgaria and Romania to benefit from the list of 150 occupations until 2012.</p> <p>Besides, a list of 'tense sectors' intended in <i>July 24th 2006 Act</i> enables employers to hire foreigners. In these specific sectors, a one-year renewable temporary residence card can be established during the working period.</p> <p>Q3. Yes, there is a direct link between the identification of labour shortages in specific occupations and sectors and the possibility of hiring foreign workforce. This link is materialised by the pre established lists of occupations faced with difficulties of recruitment.</p> <p>Q4. France, as other Member States, follows the Global Approach to Migration adopted by the European Council in 2005 that enhances cooperation between countries of origin, transit countries and countries of arrival for a concerted management of migration.</p> <p>France has systematized the concrete application of the global approach in the framework of bilateral agreements concluded with countries of origin such as Senegal, Gabon, Democratic Republic of the Congo, Benin, Tunisia, Mauricio Republic of Mauritius, Green Cape, Burkina Faso and Cameroon. There are no specific numbers of seasonal workers or permanent workers expected but these agreements facilitate the entry of foreign nationals in France (seasonal workers, "young professionals", beneficiaries of the "competences and talents" card). For example, 9,000 Tunisian professionals should enter the French territory every year in the framework of the agreement signed between France and Tunisia.</p> <p>Q5. The impact of the economic downturn on labour migration is limited. The number of labour migrants' entries is about 25, 000 a year (27 007 in 2008 and 22 799 in 2009) which represents less than one per 1000 out of the active earner population.</p>
	Latvia	Yes	<p>Q1.-Yes, Latvia has an admission system for third country nationals for labour migration purposes. Immigration Law and its subordinate regulations of the Cabinet of Ministers Regulation on January 20, 2004 No.44 "On Work Permits for Foreign Nationals" regulates third country national's employment.</p> <p>Q2.-The State Employment Agency confirms the work invitation before an employer can employ a third-country national. The work invitation can be confirmed if at the State Employment Agency a free working place or vacancy for a specialist is registered and it is free not less than a month after registration after the employer has submitted the documents at the State Employment Agency to receive the work invitation. The potential guest worker must also provide documents confirming qualification.</p> <p>Q3.-No, there is no direct link between the identification of labour shortages in specific occupations and sectors and the possibility of hiring foreign workforce Please, see answer 2.</p> <p>Q4.-No, Latvia hasn't any specific managed migration scheme.</p> <p>Q5.-The economic downturn has caused a high unemployment rate in Latvia. The number of third country nationals, who has received residence permits on employment ground, has dropped for 64% in 2009. There are still labour shortages in specific employment field, because Latvia's labour market cannot provide, for example, shipwright specialists.</p>
	Lithuania	Yes	<p>1. The general policy is: A work permit for an alien is issued considering the needs of the Lithuanian labour market, giving priority to EU and Lithuanian citizens (stated in the regulation "On the issuance of work permits to aliens" signed by the Minister of Social Security and Labour, 14 August 2009, State Gazette No. 98-4143).</p> <p>The Law on the Legal Status of Aliens foresees for a general admission scheme:</p>



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		<p>Article 44. Issue of a Temporary Residence Permit to an Alien Who Intends to Work</p> <ol style="list-style-type: none"> 1. A temporary residence permit may be issued to an alien who intends to work in the Republic of Lithuania, provided that the alien: <ol style="list-style-type: none"> 1) holds a work permit, or 2) in the cases established in paragraph 2 of Article 58 of this Law, has been exempted from the obligation to obtain a work permit. 2. An alien who intends to work shall be issued a temporary residence permit for one year. 3. An alien's application for the issue of a temporary residence permit may be examined in conjunction with the application for the issue of a work permit. 4. Upon the expiry of a work permit, an alien must depart from the Republic of Lithuania. <p>Article 45. Issue of a Temporary Residence Permit to an Alien Who Intends to Engage in Lawful Activities</p> <ol style="list-style-type: none"> 1. A temporary residence permit may be issued to an alien who intends to engage in lawful activities in the Republic of Lithuania, provided that the alien: <ol style="list-style-type: none"> 1) registers an enterprise, agency or organisation in the Republic of Lithuania as the owner or co-owner, in which the nominal value of his proportion of the authorised capital held in the enterprise must comprise not less than LTL 50 000, and his stay in the Republic of Lithuania is necessary seeking to attain the aims of the enterprise, agency, or organisation and carrying out the activities; 2) is the head or an authorised representative of an enterprise, agency or organisation registered in the Republic of Lithuania, if the principal goal of his entry is work at the enterprise, agency or organisation; 3) intends to engage in lawful activities in the Republic of Lithuania, for which no work permit or permit to engage in certain activities is required. 2. An alien who intends to engage in lawful activities in the Republic of Lithuania shall be issued a temporary residence permit for one year. 3. Upon terminating lawful activities in the Republic of Lithuania, an alien must depart from the Republic of Lithuania. <p>In all those cases mentioned by the article 45 an alien does not need to obtain a work permit, only a residence permit.</p> <p>Exceptions from general procedure:</p> <ul style="list-style-type: none"> • The Ministry of Social Security and Labour publishes every half a year a list of professions which are lacking in Lithuania (currently 7 professions, in 2006 there were 60 professions included). Persons who are included into this list can come to work to Lithuania immediately after receiving a work permit. They are issued a national D visa and can apply for a residence permit while in Lithuania. This shortens their employment time because they do not need to wait for a residence permit which can take up to 6 months. • Some professionals are exempted from the requirement to obtain a work permit and residence permit and can come to work in Lithuania with a national visa, valid for 1 year. <ul style="list-style-type: none"> - university teachers and researches; - professional sportsmen or trainers;
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			<p>- seamen;</p> <p>2. The list of professions which are lacking in Lithuania is approved by the Minister of Social Security and Labour every half a year. The Labour Exchange Office analysis data from its regional offices on professions that are in need, on how many third country nationals are working/their lengths on contracts, etc and based on that provides recommendation to the Ministry of Social security and Labour which approves the final list.</p> <p>3. In Lithuania a labour market test is used. The employer willing to employ a foreigner must register a vacancy with the Lithuanian Labour Exchange Office and advertise the vacancy for one month. If during this period the Labour Exchange Office does not provide a person with needed qualifications, the employer can start the procedure of employing an alien. The decision to issue a work permit is based on the ground that a required worker cannot be found in national labour market. The Labour Exchange Office decides on every single case.</p> <p>4. No.</p> <p>5. Yes.</p> <ul style="list-style-type: none"> • Lithuanian Labour Exchange Office issued in total 1983 work permits to foreigners during January-September 2009. This is more than three times less if compared to the same period in 2008. • Migration services receive more requests to withdraw temporary residence permits, issued to the third country workers, because of the fact that employers terminate labour contracts with such people and according to the legislation they need to leave the country. In comparison, during the first half of 2009 migration services withdrew 758 residence permits issued on the grounds of work; whereas during the first half of 2008 there were only 214 withdrawals. • The Ministry of Social Security and Labour publishes every half-year a list of professions that are lacking in Lithuania. Aliens whose profession is included into the list can prolong their work permit after 2 years period for additional 2 years without leaving the country. This list became shorter (60 professions were included in 2007 and only 7 in the second-half of 2009).
	Netherlands	Yes	<p>Q1. Yes. The main criterion that has to be met by a labour migrant in order to acquire a residence permit (Aliens Act) is to obtain a working permit (Labour Act for Aliens) first .</p> <p>Q2 and Q3. A number of organisations have been merged and will be called the Labour Company for now. The Labour Company reports to the Ministry of Social Affairs and Employment. It delivers a monthly analysis on regional economic and labour developments. Companies who wish to hire a third country labour migrant have to follow the procedure set up by the Labour Company that follows a principle of hiring domestic workers first before hiring migrant workers. Before hiring a migrant worker, the company involved has to open a vacancy solely for domestic workers for a certain amount of time (a couple of weeks) which is set by the Labour Company. If the vacancy cannot be fulfilled by domestic workers, it can be opened for migrant workers. The opening of the vacancy for domestic workers can be shortened if there is a great need for workers in a certain area.</p>


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			<p>Q4. No, there is no such scheme in NL as meant in this ad hoc.</p> <p>Q5. Yes, since October 2008 (beginning of downturn in the Netherlands) lower numbers of applications are seen in the field of labour and highly skilled migrants.</p>
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further
	Portugal	Yes	<p>Q1.- In Portugal the admission system is regulated mainly in Immigration Law (Act n.º 23/2007, 4th July) in article n.º 59º “Residency visa for supplying a dependent professional activity”.</p> <p>Q2.- In Portugal the granting of visa to obtain residence permit for purposes of subordinated professional activity is dependent on the existence of job opportunities, not taken by Portuguese nationals, by workers who are European Union Member States’ nationals, by workers who are European Economic Space nationals, by workers who are citizens of third States with which the European Union has signed a free movement of persons agreement, as well as by workers who are third-country nationals and legally reside in Portugal.</p> <p>To accomplish the stipulations of the preceding paragraph, the Council of Ministers, against a preliminary assessment of the Permanent Commission for Social Concertation approves, on an annual basis, a global quota which indicates the availability of job offers, which are presumed not to have been taken by the workers itemised in the preceding paragraph, and may exclude specific sectors or activities that do not require further workers, provided the market circumstances so indicate.</p> <p>In the global quota mentioned in the preceding paragraph there will be specific quotas for each of the autonomous regions, in accordance to the respective needs and regional particularities.</p> <p>Q3.- The Institute for Employment and Professional Training, as well as the respective branches in each autonomous region keep an information system permanently updated and accessible to the public in the Internet, containing all job offers covered by paragraph 1 and publicise them, by its own initiative or by request of the employers or of the associations that belong to the Consultation Council, on the premises of the Portuguese Embassies and permanent consular posts.</p> <p>Q4.- Up to the limit of the quotas established and for job positions not taken by the workers specified in Q2, it may be issued a residency visa for taking a subordinated professional activity to third-country nationals that fulfil the requisites established in article 52º (“<i>General conditions for granting residency, temporary stay and short stay visas</i>”), and who:</p> <p>a) Detain a work contract or consignment of work contract; or</p> <p>b) Detain qualifications, competencies or expertise that has been acknowledged for accomplishing one of the activities described in the preceding paragraph and regarding whom the employer has shown a specific demonstration of individual interest.</p> <p>To accomplish the stipulations of sub-heading b) of the preceding paragraph all applications of third-country nationals are forwarded through the Institute for Employment and Vocational training or, in the case of the autonomous regions, through their respective</p>



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			<p>departments.</p> <p>The Institute for Employment and Vocational Training produces a report every semester on the executing of the global quota. This quota is determined each year by the national government.</p> <p>Q5.- Yes. In Portugal the number of shortage occupations has decreased during the last and the present year. The number of workers who reached Portugal through the general system or within the managed migration scheme was very low, when compared to previous years.</p>
	Slovenia	Yes	<p>A1.) The admission system in the Republic of Slovenia for third country migrant workers is essentially based on two legislative instruments. First of all, employment or work of third country nationals is only possible on the basis of a work permit, which has to be, in principle, acquired before the actual entering of third country national on the territory of Slovenia. Work permits are issued in accordance with provisions of Employment and work of aliens Act (July 2007). The competent authority for issuing work permits is Employment agency.</p> <p>Secondly, aliens who wish to reside in the Republic of Slovenia for employment or work purposes has to obtain, on the basis of a work permit, residence permit in accordance with the provisions of Aliens Act.</p> <p>A2.) The Statute on the implementation of active employment policy measures stipulates that the Catalogue of shortage Occupations can be set up by Employment Agency according to the methodology which entails all relevant data, such as existing job offers, current or future needs of employers, work permits and employment of aliens, situation on the labour market (for example the number of unemployed domestic workers). On the basis of this data the Employment agency can prepare yearly Catalogue of shortage occupations and sectors for each local office of Employment Agency.</p> <p>In the recent years it was possible, on the basis of so-called Shortage occupations list and due to low unemployment rates, to employ third country nationals in some occupations or sectors without labour market test. This provision mainly applied for occupations in construction, transport, catering and other labour intensive industries. In this way the Employment Agency issued over 10.000 work permits in 2008.</p> <p>A3.) Yes, there is a direct link between the shortages on the labour market and employment of third country migrant workers. In cases where Employment Agency can not provide suitable worker already available on the labour market (domestic worker or migrant worker from EU or EEA Member States or the Swiss Confederation) the employer has the possibility to employ third country national (see also answer 4).</p> <p>A4.) In accordance with migration policy and taking into account the conditions and fluctuations of the labour market Slovenia annually determines the quota of work permits through which it restricts the number of third country nationals on the labour market.</p> <p>The quota shall be divided for the following purposes:</p>

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			<ul style="list-style-type: none"> - employment of aliens in the Republic of Slovenia - aliens seconded to the Republic of Slovenia - training and advanced training - seasonal work performed by aliens - individual services provided by aliens. <p>According to data provided by the Statistical Office yearly quota may not exceed 5% of the actively working population of the Republic of Slovenia. Some work permits can be also issued outside the quota without verifying the situation in the labour market (for example personal work permits, permits issued on the basis of bilateral agreement). No special bilateral arrangements with third countries are in place at the moment, although we are considering entering in agreement on employment of its nationals with Bosnia and Herzegovina.</p> <p>For 2009 quota was set in the amount of 24.000 work permits, which represents 25% less then the year before.</p> <p>A5.) Slovenia indeed, due to the economic crisis, adopted two measures for the protection of its labour market and which directly affected the employment of third country migrant workers. The situation on the Slovenian labour market worsened dramatically - there is currently at least 50 % more unemployed domestic workers, compared to October of last year.</p> <p>First of all we changed, in March 2009, existing provisions regarding the procedure of issuing work permits without verifying the situation on the labour market for shortage occupations (see also answer 2). After this change every application for issuing the employment permit is verified by the Employment Agency whether or not there are available suitable domestic workers in the evidence of unemployed persons.</p> <p>Additionally Slovenia in July 2009 adopted Decree on restrictions and prohibition of employment and work of aliens which sets out the restrictions and prohibitions of new employment and work of aliens based on occupation, company, profession and regional area, under which the Employment Service of Slovenia shall not issue work permits.</p>
	Slovak Republic	Yes	<ol style="list-style-type: none"> 1. The admission and employment of third country nationals is regulated by the Act on Employment Services (5/2004) which in par. 5 regulates the conditions of the employment of foreigners and by the Act on Stay of Aliens. The foreigner can be employed on the basis of the work permit and residence permit for the purpose of employment. The employer can employ a foreigner only when he/she is in a possession of both permits. 2. In the Slovak Republic no sector in which there is a lack of labour force which could be filled with the labour force from abroad (by foreigners) is specified. 3. The responsible institution is the Office of Labour, Social Affairs and Family in the place of employment of the foreigner. In case of the employment of the foreigner the Office of Labour in line with the application for the work permit controls the situation on the labour market on the local and regional level. This means that the Office of Labour checks if the specific position is not possible to fill by the registered unemployed person, i.e. unemployed citizen of the Slovak Republic or a citizen of one of the

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			<p>EEA countries.</p> <p>4. No. In case of a seasonal work the work permit is also required, which is granted for maximum 6 months in one calendar year. Following the granting of the work permit the residence permit for the purpose of employment is granted for the period stated in the work permit.</p> <p>5. Yes, the economic downturn caused a decrease in number of applications for work permits for the foreigners. Their number at the end of 2008 decreased by ¼. At the moment their number is on the level as at the end of 2008. Due to the economic downturn the situation on the Slovak labour market has changed. In sectors where in the past there was a lack of work force is a sufficient number of labour force from Slovak Republic which is able to cover the labour force needs in the Slovak Republic (this is also due to the return of the Slovak citizens who have been working abroad mainly in the EU countries).</p>
	Sweden	Yes	<p>Q1. - Yes. It is regulated in chapter 6 in the Aliens Act (2006:716).</p> <p>Q2. - The shortages are identified by the Swedish Public Employment Service in consultation with trade unions and employer organizations.</p> <p>Q3. - There is no such link. The competent authority for granting residence and work permit for third country nationals coming to Sweden to work is the Swedish Migration Board. Permits are granted even if there is no shortage stated as long as the following terms are fulfilled. - The employer must advertise the job vacancy in Sweden and in the EU to make it possible for residents in Sweden and EU-nationals to apply for the job. The employee must be able to support himself on the salary and the employer must offer pay, insurance cover and other terms of employment which are no worse than the terms that follows from Swedish collective agreements or practice within the profession or sector.</p> <p>Q4. - There are no specific managed migration scheme.</p> <p>Q5. - Generally it has affected the number of occupation and unemployed. However it is not possible to say in what consent it has affected the arrival of workers who are third country nationals.</p>
	United Kingdom	Yes	<p>1. Yes. Non-EEA nationals wishing to work in the UK must apply through our Points-Based System. The system is designed to attract applicants with skills that will be beneficial to the UK. There are four tiers in operation, three of which relate to workers:</p> <ul style="list-style-type: none"> • Tier 1 – highly skilled workers who will contribute to growth and productivity • Tier 2 – skilled workers with a job offer to fill gaps in the UK workforce • Tier 4 – students • Tier 5 – temporary workers and youth mobility <p>Tier 3, which was intended to cover low-skilled workers to fill temporary labour shortages, has not been implemented. The UK</p>

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		<p>government expects employers to fill all low-skilled vacancies without needing to recruit non-EEA nationals.</p> <p>The criteria and points awarded under the Points-Based System are set out in the Immigration Rules (www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/), which are secondary legislation, laid before Parliament as a statement of the practice to be followed in the administration of the Immigration Act 1971.</p> <p>2. Under Tier 2 of the system, migrants must have an offer of a skilled job that could not be filled by a suitable resident worker. These jobs fall into three main categories:</p> <ul style="list-style-type: none"> • shortage occupations where there is a recognised national shortage of resident workers with the necessary skills; • intra-company transfers for jobs that require an established employee from an overseas branch of the company; • jobs where the employer has carried out a resident labour market test (which includes advertising the job nationally) and demonstrated that no suitable resident workers were available. <p>The Migration Advisory Committee (MAC) advises the government on shortage occupations and other migration issues. It is a non-statutory, non-time-limited, non-departmental public body, sponsored by the UK Border Agency of the Home Office. The MAC provides independent, evidence-based advice to government on specific sectors and occupations in the labour market where shortages exist which can sensibly be filled by migration. Jobs in shortage occupations attract additional points and do not require a resident labour market test. More information can be found at: http://www.ukba.homeoffice.gov.uk/aboutus/workingwithus/indbodies/mac/aboutthamac/</p> <p>3. Yes, please see response to question 2. Earlier this year the UK Government also announced that the shortage occupation list would trigger skills reviews, aimed at increasing the skills of resident workers to fill shortage occupations and reduce reliance on migrant workers in future.</p> <p>Non-EEA nationals may come to work in the UK in jobs other than shortage occupations under Tier 2, but they obtain fewer points and their job must be subject to a resident labour market test (please see response to question 2).</p> <p>Tier 1 migrants are granted free access to the UK labour market. Tier 5 migrants are allowed to work in the UK for a limited period of time to satisfy primarily non-economic objectives.</p> <p>4. The Points-Based System applies to all non-EEA nationals wishing to work in the UK, for any length of time.</p> <p>5. To some extent, migration adjusts automatically to changes in economic circumstances. In an economic downturn, fewer companies recruit, and those that are recruiting are more able to find the skills they need from the resident labour market. Whilst migration to the UK has fallen over the last year, it is not possible to determine how much of this fall has been due to the economic downturn, and how much has been due to the massive changes that the UK has made to its immigration system by introducing the Points-Based System.</p>
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			<p>The Migration Advisory Committee reviews the shortage occupation list every six months to ensure it continues to reflect current labour market needs. The latest list covers less than 500,000 potential vacancies, compared with 800,000 potential vacancies on the shortage occupation list that was introduced in November 2008.</p> <p>In response to the economic downturn that has hit British workers, we tightened the Points-Based System earlier this year to be even more selective in the following key ways:</p> <ul style="list-style-type: none"> • We have strengthened the Resident Labour Market Test (RLMT) for employers with skilled jobs on offer, so employers must advertise them to resident workers through Jobcentre Plus⁹ before they can bring in a worker from outside Europe. This reinforces Jobcentre Plus' active role in matching job vacancies to the skills of the resident population; • we tightened the criteria for highly skilled migrants raising the qualifications and salary level to enter the UK through Tier 1 of the Points Based System to require a Masters degree and a minimum salary of £20,000; and • we asked the Migration Advisory Committee to advise on what changes should be made to Tier 1 and Tier 2 of the Points-Based System from next year, to better serve the UK's economic needs
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⁹ More information about Jobcentre plus can be found at: <http://www.jobcentreplus.gov.uk/JCP/index.html>