



## **Information request on Legal provision that protect the labour market by limiting the employment of third country nationals in a MS**

**Requested by LV EMN NCP on 24<sup>th</sup> November 2009**

**Compilation produced on 2<sup>nd</sup> February 2010**

**Responses from – [FR](#), [LT](#), [NL](#), [SE](#) (4 in Total)**




*Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*

### **1. Background Information**

On behalf of our colleagues from the Project Management and International Cooperation Division we are looking for Member States whose legislation has legal provisions that protect the labour market by limiting the employment of third country nationals.



This information is necessary to chose Member States for experience exchange on the employment of the third country nationals within the framework of co-financed project of the European Social Fund.

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		Wider Dissemination? <sup>1</sup>	
	France	Yes	<p><b>Legal provision that protect the labour market by limiting the employment of third country nationals in France</b></p> <p>In France, the employment of third-country nationals is generally <b>regulated or even limited</b>.  In most cases, <b>the principle of community preference</b> 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 (Regional Services of the Ministry of Work, Employment and Professional Training) a work permit (Labour Code, article. <u>R. 5221-11</u>). 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.  The employment of third-country nationals is generally regulated, particularly to attract <b>highly-qualified workers</b>; 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 aims at reducing workforce shortages by promoting the admission and mobility of third-country nationals who would stay over three months.  Also, there are occupations and sectors where there is a need for foreign workforce. Thus, France has established in the Circular of December 20<sup>th</sup> 2007 <b>a list of 30 occupations</b> faced with difficulties of recruitment and available for third-country nationals. Besides, a list of 'tense sectors' intended in July 24<sup>th</sup> 2006 Act 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>At the European level, the Directive 2003/109/EC on the status of third-country nationals who are long-term residents in the EU normally grants <b>the right to equality in access to employment</b>. However there are national dispensations and France did not transpose this principle of equality into its internal law despite the deadline for transposition in 2006.</p> <p>Some occupations are strictly <b>limited to French nationals or EU nationals</b>; it is the case of regulated occupations such as independent professions (doctors, lawyers, architects, nurses, pharmacists, midwives, etc.) or public service professions.</p>
	Latvia	Yes	Latvian legislation does not provide such possibility.
	Lithuania	Yes	Lithuania should be counted in as a country that protects its labour market from third country nationals. We use the labour market test. This means that in order for an employer to employ somebody from a third country he/she must advertise the vacancy with the Labour Exchange Office for a month. Only if no nationals are available for the advertised position he/she can start with the employment

<sup>1</sup> A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then the response should be removed and 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>procedure (which sometimes takes up to 6 months).</p> <p>Exceptions from general procedure:</p> <ul style="list-style-type: none"> <li>• 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 (approx one month). 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.</li> <li>• 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"> <li>- university teachers and researches;</li> <li>- professional sportsmen or trainers;</li> <li>- seamen;</li> </ul> </li> </ul> <p>Those are the basics of LT rules regarding the employment of third country nationals.</p>
	<b>Netherlands</b>	<b>Yes</b>	In the NL we do have legal provisions that protect the labour market.
	<b>Sweden</b>	<b>Yes</b>	Sweden's legislation does not provide such possibility.

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