



EUROPEAN COMMISSION
DIRECTORATE-GENERAL HOME AFFAIRS

Directorate B : Immigration and Asylum
Unit B1 : Immigration and Integration

MIGRAPOL
European Migration Network
Doc 277

EUROPEAN MIGRATION NETWORK

Third Focussed Study 2012

- Intra EU Mobility of third-country nationals -

Common Template

Final: 17th October 2012

Subject: Common Template for the EMN Study 2012 on the “Intra EU Mobility of third-country nationals.”

Action: EMN NCPs are now requested to undertake this activity according to the Timetable given on Page 9. If needed, additional clarifications can be provided on the occasion of the informal EMN NCP meeting on 30th October 2012 in Cyprus.

I. Aims and background to the Study

The EMN Steering Board approved the selection of the topic “**Intra-EU mobility of third-country nationals**” as the third Focussed Study for the EMN Work Programme 2012.

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

- identify the key issues on legal intra-EU mobility for third-country nationals as perceived by the different Member States, in particular the challenges/barriers which may be affecting the intra-EU mobility of third-country nationals for reasons of work;
- provide an overview of the EU *acquis* and explore in particular the national rules and policy beyond the EU *acquis* of relevance to the intra-EU mobility of third-country nationals;
- analyse the extent to which statistics are available on the scale of legal intra-EU mobility of third-country nationals in order to characterise, for example, current trends and patterns of mobility (who is moving where and from which Member States, reasons for mobility, nationality, skill level, duration of stay, sector of economy mobile third-country nationals are employed in, etc.)

The study’s underlying concern is to understand how intra-EU mobility of third-country nationals might be enhanced in order to benefit from a mobile workforce contributing to the EU’s growth. Mobility rights have economic and social benefits for the individuals concerned. They should also reduce skills mismatches, help to address unemployment and contribute to economic growth at EU level. However, whilst every citizen of the Union, in accordance with the Treaty establishing the European Union, has the right to move and reside freely within the territory of the Member States, intra-EU mobility rights are only provided for certain categories of third-country nationals within the EU *acquis* subject to the necessary conditions being met.

Given the range of EU and national legislative instruments governing intra-EU mobility of third-country nationals, and the limited information which exists on the phenomenon, the study will provide an overview of the situation in the EU plus Norway, including in terms of the availability of relevant statistics. The EU *acquis* is understood to account only for a small proportion of total movements of third-country nationals, which is why understanding national rules, policies and practices is so important. Understanding which groups of third-country nationals fall through the gaps in the EU *acquis*, and the challenges which they represent, will help the Commission to decide whether further action at EU level is needed. With the Commission planning to undertake a public consultation on labour migration, such an overview of the main issues/challenges relating to the mobility of third-country nationals will be very timely. The study should enable a critical analysis of certain assumptions which have so far shaped the development of EU *acquis*. These include the belief that only highly qualified third-country nationals are mobile and the perception that third-country nationals are more mobile than EU citizens.

II. Primary Questions to be addressed

- What is the framework provided by the EU *acquis* in relation to the intra-EU mobility of third-country nationals, and how well does it work? Have any problems been

identified in the work of the intra-Member State network of contact points relating to the mobility of third-country nationals who are long-term residents in the EU and/or EU Blue Card holders?

- What are the gaps? Which categories of third-country nationals and/or circumstances are not provided for in the EU *acquis*? How does this compare with / relate to the EU *acquis* governing the intra-EU mobility of EU citizens?
- What are the national rules / national legislative framework that govern(s) intra-EU mobility of third-country nationals and their families, and how do these rules link to the relevant EU *acquis*?
- How are national rules different for third-country nationals and their families when compared to mobile EU citizens?
- Are third-country nationals who move from another Member State (or an EFTA country) treated in the same way as those who have moved directly from their country of origin?
- Which groups of third-country nationals are specifically provided for in the national legislative framework, and what are the gaps? Are there specific rules for the specific groups, also taking into account different skill levels?
- What is the scale and scope of the phenomenon? What are the patterns and trends of mobility of third-country nationals, in terms of the nationalities, Member States involved and direction of movement?
- What information is available on the occupational and demographic profile of mobile third-country nationals?
- What restrictions to the mobility of third-country nationals have been included in national legislation/policies (e.g. labour market restrictions; requirements concerning the recognition of degrees and diplomas, etc.) and why have these been considered necessary?

In order to maintain the focussed nature of the study and avoid duplication with previous/current work on mobility, the study will mainly concentrate on the movements of third-country nationals for the purposes of work.¹ This group includes workers employed in high-skilled jobs (e.g. EU Blue Card holders), skilled jobs and low-skilled jobs, persons employed in regulated and unregulated professions, researchers, posted workers, cross-border workers and seasonal workers. However, through its mapping of the situation in (Member) States, the study will also potentially highlight other groups that may be considered important from a labour market point of view but that have not been previously the subject of EU policy (e.g. the self-employed). Third-country nationals travelling as tourists, and other kinds of visitors, are not included in the scope of the study.

The irregular movement of third-country nationals can pose important challenges to EU and national policymakers. This includes third-country nationals who legally enter a second Member State, using the right they have gained through their residence in the first Member State to travel throughout the Schengen area, but then overstay. However, in view of the absence of reliable statistics on the intra-EU movement of third-country nationals in general

¹ It is recognised that not all countries have readily available statistics which distinguish between intra-EU movements of third-country nationals for the purposes of work and movements for other purposes, so in some (Member) States this focus may be difficult to apply in practice.

and irregular movements in particular, and the specific nature of the challenges raised by irregular movements, these remain beyond the scope of this study.

The study will also not focus on the intra-EU mobility of EU citizens. Instead, the mobility rights of EU citizens will form an important backdrop to the study since intra-EU movements of third-country nationals are affected in part by the flow of EU nationals. Specific integration challenges facing mobile third-country nationals will also be excluded from this study since it is very difficult to distinguish these from the integration challenges affecting migrants in general.

Finally, in view of the limited information that is expected to exist on the occupational and demographic profile of intra-EU mobile third-country nationals, these questions will not be prioritised in the study, but where information is available this will be mapped as well.

III. EU *acquis* relevant to the intra-EU mobility of third-country nationals

Whilst every citizen of the Union, in accordance with the Treaty establishing the European Union, has the right to move and reside freely within the territory of the Member States, mobility rights are only provided for certain categories of third-country nationals. Whilst third-country nationals have the right to travel freely within the Schengen area, taking up residence in another Member State is covered by specific legal instruments, depending on their status, and subject to the necessary conditions being met.

The main EU instruments that govern mobility of third-country nationals include:

1. Rights of third-country national family members under Directive 2004/38

Directive 2004/38/EC (freedom of movement) sets out the rights of citizens of the Union and their family members, whatever their nationality, to move and reside freely within the territory of the Member States.

2. Mobility Rules under the Migration Directives

The following legal migration Directives lay down, among other things, the conditions under which these categories of third-country nationals and their family members may reside in a Member State other than the one where they first acquired an immigration status.

A. Council Directive 2003/109/EC on third-country national long-term residents

Third-country nationals who acquired the status of long-term residents in one EU Member State can move to another Member State and apply for a residence permit within three months of their arrival in the other Member State. Their mobility rights are covered by Chapter III of the Directive and are subject to certain conditions. The Member States are required to appoint contact points to receive and transmit information in the context of decisions made by a Member State regarding residence permits applications made by third-country nationals who have long-term residence in another Member State.

B. EU Blue card holders (Directive 2009/50/EC)

Third-country nationals with highly qualified employment (i.e. holders of an EU Blue Card in one Member State) may move to another Member State after 18 months of residence, but must apply for another EU Blue Card within one month of their arrival in the second Member State. This is covered by Chapter V of the Directive, which also requires the Member States to appoint contact points to receive and transmit information in the context of decisions made by a Member State regarding EU Blue Card applications made by third-country nationals who are holders of an EU Blue Card in another Member State.

C. Students (Directive 2004/114/EC)

In the case of students, the conditions of pursuing part of the studies or complementing the studies carried out in the first Member State with related courses in another Member State is governed by Article 8 of Directive 2009/50/EC. Mobility provisions do not cover other groups of third-country nationals covered by the Directive (school pupils, volunteers, unremunerated trainees).

D. Researchers (Directive 2005/71/EC)

Mobility provisions are governed by Article 13 of the Directive. Provided the researcher stays only up to three months in the second Member State, the research may be carried out on the basis of the hosting agreement concluded in the first Member State. If the researcher stays longer than 3 months, Member States may require a new hosting agreement.

E. Posted third-country workers (Directive 96/71/EC)

This relates to workers who are “posted” by a service provider for the purposes of cross-border provision of services. Directive 96/71/EC provides posted workers with certain minimum employment related rights. This Directive does not contain any specific provision for posted third-country nationals. However, relevant case law makes clear (*see judgments of 9.8.1994, Vander Elst, case C-43/93, of 21.10.2004, Commission v Luxembourg, case C-445/03, and of 19.1.2006, Commission v Germany, case C-224/04. Idem judgment of 21.9.2006, Commission v Austria, case C-168/04*) that the host Member State **may not impose administrative formalities** or additional conditions on posted workers who are third-country nationals when they are lawfully employed by a service provider established in another Member State, without prejudice, however, to the right of the host Member State **to check that these conditions are complied with in the Member State** where the service provider is established.

F. Third-country nationals not covered by EU acquis?

Other categories of third-country nationals, including holders of residence permits that are 'formally limited,' seasonal workers, frontier workers, cross border workers are not covered by EU Directives or proposals. In relation to third-country nationals who are not family members of EU citizens, their right to enter and stay in a second Member State for more than three months is governed by the national policies and legislation of individual Member States. Short-term movements of third-country nationals to and/or from Member States that are not inside the Schengen area are also subject to specific requirements.

3. Other provisions within the EU acquis which may influence migrants' decisions

Besides the specific mobility rights provided to certain categories of third-country nationals under the EU's migration Directives described above, the EU *acquis* contains a number of additional provisions which may affect the migrant's decision to reside in another Member State. These include provisions regarding: (i) areas where Member States still enjoy discretion, especially as regards access to the labour market; (ii) the portability of social security rights; and (iii) the recognition of degrees and diplomas.

A. Limitation to access the labour market

Member States still have discretion over a number of issues which may affect the migrant's decision to reside in another Member State in particular regarding access to the labour market. For example, for third-country nationals with long-term resident status involved in an economic activity in an employed or self-employed capacity, Member States have the right to

examine the situation of their labour market (labour market test) and give preference to Union citizens (Article 14 (2)). They are also allowed to restrict access to the labour market for the first 12 months (see Article 21(2) of Directive 2003/109) for the purposes of work. In certain cases Member States may also require certain third-country nationals who have long-term residence in another Member State to comply with integration conditions, in accordance with national law (Article 15(3)). For EU Blue card holders (Directive 2009/50/EC), Member States may still maintain limitations on the volume of admission of third-country nationals entering their territory for the purposes of highly qualified employment (Article 18).

B. Portability of Social Security Rights

The social security rights of mobile third-country nationals are regulated by Council Regulation 1231/2010 which extended EU social security coordination regulations to third-country nationals.

C. Recognition of degrees and diplomas

The migration Directives 2011/98/EU (Single Permit), 2009/50/EC (Blue Card), 2003/109/EC (Long Term Residents) and 2004/114/EC (Researchers) all provide for equal treatment in regard to the recognition of diplomas. This right to equal treatment makes Directive 2005/36/EU (plus later amendments on the recognition of professional qualifications) applicable to third-country nationals in two situations: when moving to a second Member State and seeking recognition for a diploma acquired outside the EU but recognised in the first Member State; and, more generally, if they have EU qualifications. Furthermore the principle of equal treatment means third-country nationals must be treated the same as nationals of the host Member State in the same situation, e.g. a third-country national from India resident in the UK who has a nursing qualification from India, must be treated the same as a British national holding an equivalent nursing qualification from India, when moving legally to another Member State.

4. Proposals for new Directives

Finally, two proposals for new Directives are currently under negotiation in the European Council and Parliament, with implications for two categories of third-country national: intra-corporate transferees and seasonal workers.

A. New migration proposal containing mobility provisions for ICTs

A proposal for a Directive on intra-corporate transfers (COM (2010) 378) is currently under negotiation. This foresees geographical mobility for intra-corporate transferees in accordance with Mode 4 of the World Trade Organisation's General Agreement on Trade in Services (GATS). Under the proposed Directive, intra-corporate transferees would be allowed to work in different entities of the same transnational corporation located in different Member States. According to the proposed Directive, this category of third-country national would be able to reside and work in another Member State on the basis of a residence permit obtained in the first Member State, as long as the duration of a transfer does not exceed twelve months.

B. Seasonal workers

A proposal for a Directive on seasonal workers is currently being negotiated. This Directive will offer *inter alia* new social protection measures to seasonal workers. However, the proposed seasonal workers' Directive does not include provisions for intra-EU mobility and so this will not be included in the study's analysis of the EU *acquis*. The idea behind this Directive was to regulate short term and temporary migration, and to tackle irregular migration, rather to promote mobility to other Member States.

IV. Relevant previous/current work on the study topic

- The LU EMN NCP is finalising its pilot focussed study on *Third-Country National Cross Border Workers* which will be published in late 2012.
- *The Long-Term Residence Status as a Subsidiary Form of EU Citizenship: An Analysis of Directive 2003/109/EC* (Diego Acosta Arcarazo, University of Sheffield, UK) examines the implementation of the Directive (including the Chapter on mobility) in respect of four particular countries (Spain, Italy, Sweden and Latvia).
- The European Foundation for the Improvement of Living and Working Conditions has published a recent study on *Labour mobility within the EU: The impact of return migration* (2012). The study examines the return migration of workers from Central and Eastern Europe in the context of the global economic crisis. It uses statistical data and interviews with returnees, policy-makers and experts on migration to shed light on aspects of this new intra-EU mobility pattern.²
- The Commission has also published a *Report on the application of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents* (COM(2011) 585 final)³

EMN NCPs are asked to list any other relevant (national) previous/current work on the study topic in their National Contribution.

V. Definitions

The following key terms, principally coming from the EMN glossary, used in the Common Template are defined as follows:

'Third-country national' refers to any person who is not a citizen of the European Union within the meaning of Article 20(1) of the Treaty on the Functioning of the European Union, and who is not a person enjoying the Union right to freedom of movement as defined in Article 2(5) of the Schengen Borders Code.

(Source: EMN Glossary 2.0)

'Intra-EU Mobility' refers to movements from one (Member) State to another (Member) State normally to stay for more than 3 months in the other (Member) State and principally for the purpose of work.⁴

(Source: EMN Intra-EU mobility study Advisory Group)

'Long-term resident' means any third-country national who has long-term resident status as provided for under Article 4 to 7 of Council Directive 2003/109/EC.

(Source: EMN Glossary 2.0)

² <http://www.eurofound.europa.eu/pubdocs/2012/43/en/2/EF1243EN.pdf>

³ http://ec.europa.eu/home-affairs/news/intro/docs/20110928/1_EN_ACT_part1_v62.pdf

⁴ EMN NCPs may consider stays of three months or less in order to take into account your specific national situation of cross-border workers and any other group of migrant workers.

'Family member' generally means persons married to a migrant, or having a relationship legally recognised as equivalent to marriage, as well as their dependent children and other dependants who are recognised as members of the family by applicable legislation.

(Source: EMN Glossary 2.0).

'EU Blue Card holder' refers to a third-country national who has acquired the authorisation bearing the term 'EU Blue Card' entitling him/her to reside and work in the territory of a Member State.

(Source: Council 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).

'Student' refers to a third-country national accepted by an establishment of higher education and admitted to the territory of a Member State to pursue as his/her main activity a full-time course of study leading to a higher education qualification recognised by the Member State, including diplomas, certificates or doctoral degrees in an establishment of higher education, which may cover a preparatory course prior to such education according to its national legislation.

(Source: EMN Glossary 2.0)

'Researcher' refers to a third-country national holding an appropriate higher education qualification, which gives access to doctoral programmes, who is selected by a research organisation for carrying out a research project for which the above qualification is normally required.

(Source: EMN Glossary 2.0)

'Posted workers' are workers who, for a limited period, carry out their work in the territory of a Member State other than the State in which they normally work.

(Source: Council Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services)

'Cross-border worker' is someone who is employed in one (Member) State but resides in another, where he/she returns at least once a week.

(Source: Eurofound).

'Frontier worker' is someone who is employed in the frontier zone of a Member State but who returns each day or at least once a week to the frontier zone of a neighbouring (third country) in which they reside and of which they are nationals.⁵

(Source: EMN Glossary 2.0).

'Seasonal worker' is a (third-country national) worker who is resident in a third country but is employed in an activity dependent on the rhythm of the seasons in the territory of a Member State on the basis of a contract for a specific period and for specific employment.

(Source: EMN Glossary 2.0).

If it is not possible to use these definitions in developing your National Contribution, explain this in your Introduction and what alternative definition you have used instead.

⁵ Since frontier workers reside in a third country, even if they are employed in a (Member) State, they fall outside of the scope of this study.

VI. Advisory Group

For the purpose of providing support to EMN NCPs while undertaking this Focussed Study and for developing the Synthesis Report, an “Advisory Group” has been established, consisting of DE, LU and UK EMN NCPs, the Commission and the EMN Service Provider (ICF GHK-COWI). EMN NCPs are thus invited to send any requests for clarification or further information on the study to the following “Advisory Group” members:

- UK EMN NCP: Carolyne TAH, email: Carolyne.Tah@homeoffice.gsi.gov.uk
- LU EMN NCP: Christel BALTES-LÖHR, email: christel.baltes-loehr@uni.lu
- DE EMN NCP: Andreas MUELLER, email: andreas.mueller@bamf.bund.de
- COM: Stephen DAVIES, , email: stephen.davies@ec.europa.eu.
- EMN Service Provider (ICF-GHK-COWI): Margaret JAMES and Elena JURADO, email: emn@ghkint.com;

VI. Timetable

Date	Action
22 nd – 31 st August 2012	Preparatory phase
30 th August 2012	Circulation of <u>Version 1</u> of the Common Template (1 week allowed for initial comments / recommendations)
11 th September 2012	Circulation of <u>Version 2</u> of the Common Template
18 th September 2012	<u>Discussion</u> of the Common Template at the 57 th EMN NCP meeting
17 th October 2012	<u>Finalisation of template and formal launch</u> of the study
18 th December 2012	<u>Completion</u> of the (draft) Common Template by EMN NCPs and <u>development</u> of background and context sections for Synthesis Report by EMN Service Provider (ICF GHK-COWI)
January 2013	<u>Presentation</u> of draft Synthesis Report
February 2013	<u>Finalisation</u> of the Synthesis Report and of National Contributions for publication

V.II Template for National Contributions

The template outlines the information that should be included in the National Contributions to this Focussed Study. The indicative number of pages to be covered by each section is provided in the guidance note. For national contributions the total number of pages should **not exceed 18 pages**, excluding the statistics. A limit of 25 pages will apply to the Synthesis Report, in order to ensure that it remains concise and accessible.

A description of how each section will appear in the Synthesis Report is included at the beginning of each section only so that EMN NCPs may see in advance how their contributions will feed into the Synthesis Report.

EMN FOCUSED STUDY 2012

Intra-EU mobility of third-country nationals

National Contribution from (Member) State⁶

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

<u>Top-line 'Factsheet'</u> (National Contribution) <u>[Executive Summary</u> (Synthesis Report)]
<p><u>National Contribution</u> (one page only)</p> <p>Overview of the National Contribution – drawing out key facts and figures from across all sections of the Study, with a particular emphasis on elements that will be of relevance to (national) policymakers.</p>
<p><u>Synthesis Report</u> (up to 3 pages)</p> <p>Executive Summary of Synthesis Report: this will form the basis of an EMN Inform, which will have EU and National policymakers as its main target audience.</p>

⁶ Insert your (Member) State name here.

Section 1

The National Legislative Framework: Visas and Residence Permits

(National Contribution: Maximum 8 pages)

*This section reviews the national rules and procedures which third-country nationals who are resident in one Member State need to follow in order to acquire a **visa and/or a residence permit** to reside in another Member State. It also includes any conditions that mobile third-country nationals need to fulfil in order to acquire a visa and/or residence permit, such as evidence that they have a stable and regular income, sickness insurance and/or that they comply with certain integration conditions (where applicable).*

Please note that additional provisions in national legislation which can affect the decision of mobile third-country nationals to settle in another Member State (or Norway), but are not conditions for acquiring a visa or residence permit as such (e.g. rules and procedures governing the recognition of degrees and diplomas), are examined in Section 3 of this common template.

*In their responses to this section, EMN NCPs are asked to specify and describe the relevant national rules and procedures that **specific groups of mobile third-country nationals need to follow** in order to obtain a visa and residence permit. These include groups of mobile third-country nationals that enjoy mobility rights under the EU's migration Directives, and other groups of mobile third-country nationals that do not enjoy such rights at EU level. If national legislation exists that is relevant to all groups of mobile third-country nationals, EMN NCPs should specify this is the case in the space provided.*

*Please note that **only those national rules and procedures that are specific to mobile third-country nationals should be identified**. If the national rules and procedures that apply to third-country nationals who wish to move to another Member State for the purposes of work are the same as the national rules and procedures that apply to third-country nationals who migrate to an EU Member State (or Norway) from a third-country for the first time, please indicate this is the case and do not provide further information.*

*Finally, where specific national rules and procedures governing access to a visa and residence permit exist for specific groups of mobile third country nationals, EMN NCPs are asked to specify how these national rules and procedures differ (if at all) from the national rules and procedures that apply to **mobile EU citizens**.*

The Synthesis Report will provide the reader and policymakers, in particular, with a comparative analysis of the rules and policies adopted at national level in order to implement the elements of the EU acquis set out in the background to the common template (further above), and any other national rules of relevance to intra-EU mobility of third-country nationals.

In the following, what is required is a brief outline of the relevant national rules and procedures pertinent to the group described under each entry, along with an explanation of how these rules and procedures differ (where relevant) from the national rules and procedures that apply to EU citizens.

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

1.1. Long-term residents in another Member State

- 1) What national rules and procedures apply to third-country nationals who are long-term residents in another Member State in respect of their access to a visa and/or residence permit in your country?
- 2) Please explain how these national rules and procedures differ from the national rules and procedures that apply to EU citizens.

1.2. EU Blue Card holders

- 1) What national rules and procedures apply to third-country nationals who are EU Blue Card holders in another Member State in respect of their access to a visa and/or residence permit in your country?
- 2) Please explain how these national rules and procedures differ from the national rules and procedures that apply to EU citizens.

1.3. Researchers

- 1) What national rules and procedures apply to third-country nationals who are resident in another EU Member State who wish to undertake work as a Researcher in your Member State?
- 2) Please explain how these national rules and procedures differ from the national rules and procedures that apply to EU citizens.

1.4. Students⁷

- 1) What national rules and procedures apply to third-country nationals who are resident in another EU Member State who wish to undertake studies in your Member State?
- 2) Please explain how these national rules and procedures differ from the national rules and procedures that apply to EU citizens.

1.5. Posted workers

- 1) What national rules and procedures apply to third-country nationals who are resident in another EU Member State who are posted by a service provider for the purposes of cross-border provision of services in your Member State?
- 2) Please explain how these national rules and procedures differ from the national rules and procedures that apply to EU citizens.

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

1.6. Cross-border workers

- 1) Do specific national rules and procedures governing access to a visa and/or a residence permit apply to third-country nationals who are resident

⁷ The statistics already compiled for the study Immigration of International Students to the EU may be used here.

in another Member State but are employed as cross-border workers in your Member State?⁸

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

1.7. Seasonal workers

- 1) Do specific national rules and procedures apply to third-country nationals who are resident in another Member State and who exercise an economic activity as seasonal workers in your Member State in respect of their access to a visa and/or residence permit?
- 2) If specific national rules and procedures apply to the third-country nationals described in 1.7 (1) above, how do these differ from the national rules and procedures that apply to EU citizens in a similar situation?

1.8. Workers in regulated professions

- 1) Do specific national rules and procedures apply to third-country nationals who are resident in another Member State and who apply to work in a regulated profession in your Member State in respect of their access to a visa and/or residence permit?
- 2) If specific national rules and procedures apply to the third-country nationals described in 1.8 (1) above, how do these differ from the national rules and procedures that apply to EU citizens?

1.9. Any other category of migrant worker not mentioned above

- 1) Are there any specific national rules and procedures that apply to any group of third-country nationals who are resident in another Member State that has not been mentioned above?
- 2) If yes, please describe how these rules differ from the national rules and procedures that apply to EU citizens.

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

- 1) Does the national legislative framework in your Member State contain rules and procedures that are relevant to all mobile third-country nationals (rather than rules that differentiate between different groups) in respect of their access to a visa and residence permit?
- 2) If yes, please describe the rules and procedures and explain how they differ from the national rules and procedures that apply to EU citizens.

⁸ This question only applies to those Member States that require cross-border workers to apply for a visa and/or residence permit in order to work in their Member State (even if their usual place of residence is in another Member State).

Section 2

Scale and scope of the phenomenon

(National Contribution: Maximum 4 pages)

EMN NCPs are requested to:

- (i) comment on the availability of statistics on overall intra-EU mobility of third-country nationals and for the following groups of mobile third-country nationals in their countries;*
- (ii) provide the relevant statistics available;*
- (iii) provide estimates of aggregate numbers of third-country nationals using any of the proxy sources suggested further below; and finally*
- (iv) provide statistics on the flows of EU nationals to and from other Member States and Norway, Switzerland, Iceland and Liechtenstein.*

The Synthesis Report will aim to provide a sense of the scale and scope of the phenomenon of intra-EU mobility of third-country nationals by mapping the availability of data at national and EU level on the number of mobile third-country nationals. It is recognised that there are numerous gaps and weaknesses in the available statistics. An attempt will be made in the Synthesis Report to indicate general patterns and trends in the phenomenon of third-country national intra-EU mobility by using proxy sources. The Synthesis Report will compare the scale of the movements of mobile third-country nationals that are provided for by the EU acquis and those that are not, and provide possible reasons for the differences. It will also compare these trends with available statistics on the intra-EU mobility of EU nationals.

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

- *If yes, please indicate, where possible, the type of available statistics, including Member State of previous residence, skills profile (high or low-skilled), demographic profile (age, nationality, etc.), occupational profile, family status.*

Please present these statistics in a way that permits the reader to obtain a sense of the scale of the phenomenon. This should include breaking down any data on overall numbers by nationality, country of previous residence, etc.⁹ If the data can be cross-classified, please specify that this is the case. If the data is collected annually, please present it over the last 5 years; if the data is collected more sporadically, please present any data that may be available, irrespective of the years.

⁹ If a number of nationality groups predominate, and individuals belonging to certain nationalities are very small in number, the latter can be grouped together under the category “Other nationalities”.

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

- *For each group, please indicate the type of statistics, including Member State of previous residence, skills profile (high or low-skilled), demographic profile (age, nationality, etc.), occupational profile, family status.*

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

- 1) Long-term residents coming from another Member States (information should be collected by national contact points established under Directive 2003/109/EC on third-country national long-term residents)
- 2) EU Blue Card holders (information should be collected by national contact points established under Directive 2009/50/EC on EU Blue Card holders)
- 3) Researchers
- 4) Students¹⁰
- 5) Posted workers

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

- 6) Cross-border workers
- 7) Seasonal workers
- 8) Workers in regulated professions
- 9) Any other category of migrant not mentioned above

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

- *It is recognised that most proxy sources of statistics will only capture a portion of the mobile third-country nationals concerned and therefore cannot provide indications of the scale of total mobility among third-country nationals with any degree of accuracy. However, they may provide approximate indications of general patterns and trends and will be used with caution in the Synthesis Report.*

- (i) Number of applications for the recognition of diplomas/certificates acquired in another Member State.

[If available, please specify, where possible, the type of diploma or certificate,

¹⁰ The statistics already compiled for the study Immigration of International Students to the EU may be used here.

including information on whether the qualifications were obtained in a Member State or outside the EU. If the latter, were the qualifications already recognised in the first Member State, or was the request for recognition in your (Member) State the first of its kind within the EU?]

(ii) Number of visa applications by third-country nationals who are resident in another EU Member State.

[If **available**, please specify, where possible, the stated purpose of the visit].

(iii) Number of social security registrations¹¹ by third-country nationals who were resident in another Member State before arrival?

[If **available**, please indicate any characteristics of the individuals concerning, including their occupation, which may be available]

(iv) Information about previous country of residence contained in the latest population census.

[If **available**, please indicate the date of the census and the precise questions asked in this respect].

➤ **Your responses to the following proxy sources of information are OPTIONAL. Please ONLY respond if the information is considered relevant to this study in your Member State and readily accessible.**

(v) Any information that might be collected about the motivations of third-country nationals who apply for citizenship in (your) Member State (e.g. as a proxy source of information on the number of third-country nationals wishing to travel within the EU).

(vi) Any other proxy sources of statistics.

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

➤ *Please indicate, where possible, any available statistics, including Member*

¹¹ A social security registration is normally required on arrival in a Member State before access to employment can be granted.

State of previous residence, skills profile (high or low-skilled), demographic profile (age, nationality, etc.), occupational profile, family status.

Please present these statistics in a way that permits the reader to obtain a sense of the scale of the phenomenon. This should include breaking down any data on overall numbers by nationality, country of previous residence, etc.¹² If the data can be cross-classified, please specify that this is the case. If the data is collected annually, please present it over the last 5 years; if the data is collected more sporadically, please present any data that may be available, irrespective of the years

Section 3

Identified Restrictions to Intra EU mobility of third-country nationals

(National Contribution: Maximum 3 pages)

Please note that the possible restrictions listed below must be distinguished from the conditions for applying for a visa and/or residence permit reviewed in section 1 above. By ‘restrictions’ the focussed study has in mind additional provisions in the national legislation of your (Member) State that may affect the decision of third-country nationals to settle in your (Member) State even if they fulfil all the necessary (formal and administrative) conditions for acquiring a visa and/or residence permit.

These restrictions are often introduced for reasons of labour market policy or in order to maintain certain professional standards. Examples of such restrictions are provided below. EMN NCPs are asked to comment on the relevance of these examples to their national legislative framework; if relevant, to explain why they have been introduced; and to comment on how they work in practice. They should also indicate, in the space provided, whether there are any additional restrictions in place in their (Member) State that may affect the decision of third-country nationals to settle in your (Member) State.

The Synthesis Report will identify any restrictions to the mobility of third-country nationals that have been included in national legislation/policies and explain why these are considered necessary.

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

[Insert comments here]

3.2. Minimum wages are often specified in the national legislative framework that may affect the decision of a third-country national, who is resident in one

¹² If a number of nationality groups predominate, and individuals belonging to certain nationalities are very small in number, the latter can be grouped together under the category “Other nationalities”.

Member State (or EFTA country), to settle in another Member State (or Norway).

[Insert comments here]

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

[Insert comments here]

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

[Insert comments here]

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

[Insert comments here]

3.6. Any other restrictions

[Insert comments here]

Section 4

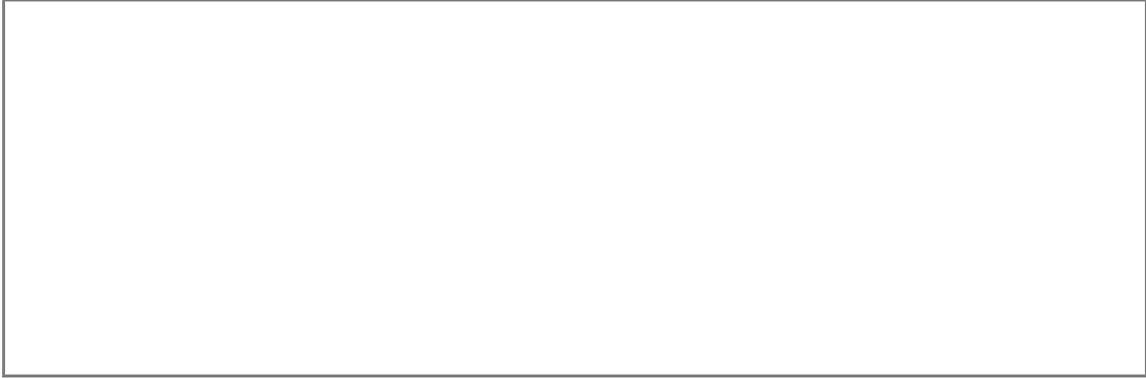
Conclusions

(National Contribution: Maximum 2 pages)

The Synthesis Report will outline the main findings of the Study and present conclusions relevant for policy makers at national and EU level.

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

[Insert response here]



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