



Ad-Hoc Query on regulatory framework to control inflow of foreign workers

Requested by LT EMN NCP on 27 September 2013

Reply requested by 20 October 2013

Compilation produced on 14 January 2014

Responses from Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Croatia, Norway (25 in Total)

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1. Background Information

This Ad-Hoc Query is requested in order to provide up to date and relevant information for a presentation for the EMN Annual Conference on 5th and 6th November 2013, therefore your timely cooperation is very much appreciated.

Every EU (Member) State employs a regulatory framework to control the inflow of TCN workers¹. This framework secures that the arrival of TCN workers is demand-driven and that TCNs workers supplement rather than compete with local workers. There are several tools or combination of them

¹ A worker is defined as an employee holding a working contract and receiving remuneration (ILO Thesaurus).

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used by (Member) States. The most frequently used are quotas, shortage lists and labour market tests (LMT). This ad-hoc query seeks to collect information about two of these tools, namely, the shortage list and the LMT. Information on quotas is available from the latest EMN inform.

Therefore, we would like to ask you the following:

Tools	Does your MS apply this tool? (yes/no)	Questions
Labour market test (LMT)		<ol style="list-style-type: none"> 1. What categories of TCN workers need to undergo the LMT? In particular, please mention if LMT is applied for highly qualified, TCNs having a profession included into the shortage list, seasonal workers. Please also indicate, what major categories of TCNs are exempted from the requirement to undergo the LMT? 2. How is the LMT applied? <ol style="list-style-type: none"> a) Advertisement (please specify who needs to advertise, where the ad needs to be posted and for how long does the ad need to specify salary) b) Search/comparison with data base of (unemployed) people c) Other (please specify) 3. If a qualified employee is found in national/EU labour market, can an employer reject the candidate and employ a similarly qualified TCN worker? 4. Please specify how the 'Community Preference' rule is implemented? 5. If available, please provide statistics: what proportion of labour market test ends up in finding an employee in national/EU labour market?
Shortage list		<ol style="list-style-type: none"> 1. How is a profession included into the shortage list? Please specify what criteria it needs to satisfy? 2. How many professions are in the list (data for 2013)? If possible compare with 2008.



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		<p>3. Which professions dominate the list?</p> <p>4. How often is the shortage list revised?</p> <p>5. How are admission and stay procedures facilitated for TCNs workers in the shortage list:</p> <p>a) Facilitated entry (please specify)</p> <p>b) Exempt from the LMT (yes/no)</p> <p>c) Exempt from salary thresholds (yes/no)</p> <p>d) Facilitated stay (please specify)</p>
Quotas		Information will be collected from the most recent EMN Inform.
Other (national) tools		Please specify if your country uses any other approaches. Please provide a general description of it.

We would very much appreciate your responses by **20th October 2013**.


2. Responses²

	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Belgium	Yes	<p>There does not exist one national regulatory framework but several regional ones. Labour policy, including labour migration policy, is executed and implemented in a different way in the 3 different regions (Flanders, Walloon Region, Brussels Region – not even to mention the small German-speaking Community who also has own competence in this field). Consequently the different regions have their own labour market test and shortage lists.</p> <ul style="list-style-type: none"> • Although a labour market test does officially exist, it is only applied for in very limited cases (f.i. in Flanders: for less than 2% of inflow of foreign workers). This is because or a labour permit is not required (f.i. postings, EU-citizens, researchers, partners of Belgians,...) or a labour permit is required but the TCN workers have been exempted from the labour market test (highly qualified; managers; au pairs, sportsmen,

² 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.


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			<p>et cetera).</p> <ul style="list-style-type: none"> • A shortage list in the framework of labour migration from TCN does not exist or apply in Belgium. Each region has two shortage lists, one dating from 2006 to manage the applications of workers of new EU-countries (currently RO, BUL and Croatia) and another general one, used for general policy (labour, economic, educational,...) but not for migration policy. • Quota system does not exist in BEL <p>Flemish region outsourced a study to a university on “the labour market test as tool and basis for future labour migration policy and EU free trade agreements”. The results will be available by the end of this month (and will definitely be interesting for the 2014 study on “business-related immigration”).</p>		
	Bulgaria	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour market test (LMT)	yes	<p>1. Conducting a market test is obligatory in the cases of Third-country nationals (TCNs) who are willing to legally work in Bulgaria for a local employer. The main categories of TCNs who are exempted from this requirement are as follows:</p> <ul style="list-style-type: none"> • For higher executive staff and specialists – hired through inter-corporate transfers; • Guest-lecturers in high-schools and universities; • Professional athletes and coaches; • For executive staff and specialists – seconded workers; • Hired in the frame of international agreements, in which Bulgaria takes part; • Persons with proven Bulgarian background; • Circus and ballet performers. <p>Conducting a market test is obligatory also in the cases of highly-qualified TCNs who are applying for “EU Blue Card” residence and work permit.</p> <p>2. The employer must explicitly try to find the worker/ specialist needed on the local labour market for at least 15 days through:</p> <ul style="list-style-type: none"> • A request at the Labour Office directorate according to the place of work, which shall verify in the National Database for registered Bulgarian citizens, citizens of EU/EEA, and foreign citizens holding a status who are meeting the employer’s requirements. In the request it is mandatory to indicate the base salary for the position;




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					<ul style="list-style-type: none"> • Announcements in the national and local print and electronic media. 3. The employer can refuse to hire a person included in the National Database if the person does not meet all the employer's criteria for this position. 4. The employer may announce job vacancies also in the EURES network. 5. Not available at the moment, due to lack of statistical data.
			Shortage list	no	
			Quotas	no	
			Other (national) tools	no	
	Cyprus	Yes	<p>Labour market test (LMT)</p> <p>1. In Cyprus the LMT is applied to show that no suitably qualified local or European worker can be found to fill a particular job vacancy so as the employer can apply to employ a TCN worker. The LMT does not apply if the job concerns:</p> <ul style="list-style-type: none"> • managerial staff of a Legal entity of foreign interest under certain requirements • researchers, students, Football players and coaches • Posted workers • Intra Company Transfer <p>2. (a) Each employer has to notify the vacancy for six weeks with the Public Employment Service and the EURES data base and at the same time to publish it in two local newspapers for two days. The description of the vacancy is checked by the PES so as to be secured that the employment terms and conditions, such as salary, hours of work, annual leave, holidays, sick leave etc, are at the level provided by Law or the relevant collective agreement</p> <p>(b) At the time of the electronic registration of the vacancy, the computerized system runs automatically a matching procedure of the described demand with the supply of unemployed persons registered in the system. For each unemployed satisfying the job requirements an interview with the interested employer is arranged.</p>		

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			<p>(c) N/A</p> <p>3. In the case where the qualification requirements of a vacancy are met by a local or European employee which is also willing and available to satisfy all the requirements of the vacancy such as, hours and conditions of work, salary etc, the Department of Labour rejects the granting of a work permit to employer of a TCN worker.</p> <p>4. The community preference rule is implemented through the advertisement of the vacancy in the EURES data base in the English language. Moreover, for each European unemployed who is registered in the Cyprus PES and satisfies the job requirements, an interview with the interested employer is also arranged.</p> <p>5. No data available (N/A)</p> <p>Shortage List : N/A Quotas: N/A</p>		
	Czech Republic	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.		
	Denmark	Yes			
	Estonia	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour market test (LMT)		<p>1. In general employers are required to gain the permission from the Estonian Unemployment Insurance Fund (EUIF) before employing the third-country national (so-called labour market test). However, as of 2011, the employers are exempt from applying for EUIF permission when renewing or extending the residence permit of the foreigner. According to the Aliens Act § 181, the following groups are exempt from the LMT:</p> <ol style="list-style-type: none"> a. a top specialist; b. an expert, adviser or consultant; c. a teacher or lecturer; d. a researcher; e. a posted worker;


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				<ul style="list-style-type: none"> f. a person engaged in creative activities; g. a sportsman, coach, referee or sports official; h. a long-term resident of a member state of the European Union i. a minister of religion, nun or monk; j. a journalist accredited by the Ministry of Foreign Affairs; k. an alien who has acquired a higher education in Estonia in the Bachelor's, Master's or Doctoral studies and applies for employment, l. an alien whose right to take employment in Estonia without a specific permit arises from a treaty m. employment for the purposes of performing directing or supervisory functions of a legal person governed by private law or public law and a branch of a foreign company registered in Estonia. <p>Some of the professions listed above could be classified as requiring (higher) qualification – e.g. top specialists, teachers, lecturer and researchers, working as an expert and consultant, employment for the purposes of performing directing or supervisory functions of a legal person (e.g. management or supervisory boards of private companies) governed by public law registered in Estonia.</p> <p>2. With the changes of the Aliens Act came into force in 2013, employment positions will no longer be required to organise public competition for three weeks and making use of the services of a state employment agency before the position can be filled with a third-country national. The EUIF uses its database to evaluate that it is impossible for the employer to fill the vacant position by employing an Estonian citizen or a citizen of the European Union or an alien residing in Estonia on the basis of a residence permit, who would comply with the requirements for qualification and professional skills for such position and filling the place of employment with a third-country national is justified taking account of the labour</p>
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				<p>market.</p> <p>3. If the EUIF database search is positive and the relevant person is found to be available in the national labour market, then the permission to employ the TCN is declined.</p> <p>4. Please see above</p> <p>5. Not available.</p>
			Shortage list	Not applicable.
			Quotas	<p>There is a general immigration quota established annually by the Government of the Republic (the maximum allowed by the law is 0.1% of the permanent population). In 2011 and 2012 established 1,008 persons as the immigration quota, which accounted for 0.075% of the permanent population of Estonia. In 2013 the immigration quota was also set for 0.075% of the permanent population, which accounts for 1,062 persons.</p> <p>Some categories of highly-skilled workers are exempt from the quota, some are not. The groups exempt from quota are: third country nationals coming to study in Estonia, researchers. The EU Blue card applicants and other labour migrants are included in the quota requirement.</p>
			Other (national) tools	-
	Finland	Yes	<p>Labour market test</p> <p>Yes, it is termed as a labour market needs assessment and it is a part of the two-stage process for a TCN to be granted a residence permit for an employed person.</p> <p>1. The labour market needs assessment is only performed for the TCN:s that apply for a residence permit for an employed person. The needs assessment is not performed for highly-qualified workers (i.e. specialists) and certain other groups. Please see the list of exempt groups below.</p> <ul style="list-style-type: none"> • a specialist • a researcher 	

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		<ul style="list-style-type: none"> • an employee for a religious or non-profit association • an athlete, coach or trainer, or sports judge or referee • a traineeship or a transfer within a company for no longer than a year • a person who has completed a degree or qualification in Finland • work in the top or middle management for a company • a visiting teacher, lecturer, instructor, consult, or research worker, and the duration of your job is no longer than one year • an employee for a religious or non-profit association • work in the field of science, culture, or arts (does not apply to musicians playing in restaurants) • work in an international organisation or in a position related to official co-operation between states • work in the field of mass media, and your employer does not have an office in Finland • tasks that involve the studying of markets, preparation of a company's location in Finland, negotiation for or acquisition of orders, supervision of the delivery of orders, or the performance of other similar tasks, and your employer does not have an office in Finland • tasks that are part of the delivery contract for an individual machine, device, production line, or expert system that has been imported to or is to be exported from Finland, as long as the job takes no longer than six months <p>2. The labour market needs assessment is performed by the Employment and Economic Development Offices (TE-Offices) and consists of an assessment of available labour on the labour market, an assessment of the employment conditions and a deliberation regarding the pre-employment labour inspection/control aspects.</p> <p>a) The Employment and Economic Development Office can, as a part of the labour market needs assessment, demand that the position is advertised as an open position in the TE-Office, on the website of the labour administration (www.mol.fi) and in the EURES- portal. There are no stipulations that state how long the job position has to be advertised or if it has to specify a salary. The employer has to announce the position to the labour authorities in that case.</p> <p>b) As a part of the assessment, the work permit units at the TE-Offices have to assess if suitable labour is available, within a reasonable time, in the specific labour market area. This includes comparisons in the database of</p>
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			<p>unemployed persons.</p> <p>c) -</p> <p>3. In general, no. If the assessment deems that suitable labour is available on the national labour market or as EU-job seekers through the EURES-system, the partial decision by the TE-Office based on the labour market needs assessment is negative i.e. means that the Finnish Immigration Service also has to make a negative decision regarding the application for a residence permit for an employed person in that case. The prospective employee can appeal against the partial decision by the TE-Office and the decision made by the Finnish Immigration Service. An employer may only appeal against a partial decision. If an employer intends to appeal against the decision on an employee's residence permit application, the employer must have written authorisation from the employee to do so.</p> <p>4. No specific measures, it is more of a general rule and naturally free movement makes it easier for EU-citizens to come to Finland and seek employment compared to TCN:s.</p> <p>5. No specific statistics are available. In 2012 the TE-Offices made approx. 950 negative partial decisions, although these do not only relate to the availability of suitable labour on the national labour market, as the negative decision can also result from incomplete information in the application or not being in compliance with the general employment conditions regarding e.g. salary or hours of work.</p> <p>Shortage lists</p> <p>1. The Ministry for the Employment and the Economy compiles a so-called "occupation barometer" which relies on data collected by the TE-Offices on the regional level, on occupations where there are many unfilled positions and no suitable unemployed persons to fill them. The regional data is also used for compiling a national level listing. It also shows the occupations where there is an oversupply of qualified persons, i.e. no positions but several unemployed persons.</p> <p>2. The "barometer" includes 200 occupations, although in public most often only the top-15 occupations are presented.</p> <p>3. According to the latest listing, which was published in the beginning of September 2013, these are the top-15</p>
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			<p>occupations which are facing labour shortages: 1) Nurses 2) Medical Doctors 3) Other nursing and medical personnel 4) Sales representatives and telephone salespersons 5) Special education teachers 6) Social workers 7) Dentists 8) Kindergarten teachers 9) Dental nurses 10) Cleaners 11) Nurses and supervisors in the social services sector 12) Dental hygienists 13) Psychologists 14) Accountants and wages clerks 15) Laboratory and X-ray nurses</p> <p>4. The listing is renewed three times per year.</p> <p>5. There are no procedural exemptions or facilitations for admitting persons to work in the “shortage occupations”. All abide by the same rules governing entry for purposes of work, i.e. if there is a demand and no suitable labour is found on the national labour market, qualified candidates from third-countries, who fulfill the criteria for a residence permit for an employed person, can be almost certain to be granted one. On the local and regional level, targeted recruitment campaigns and projects concerning specific third-countries and specific occupations on the shortage lists (e.g. nurses from the Philippines, medical doctors from the Russian Federation) have been undertaken with accompanying language and professional training, but procedurally their entry and residence permit procedures are the same as for all TCN:s.</p>						
	France	Yes	<table border="1"> <thead> <tr> <th>Tools</th> <th>Does your MS apply this tool? (yes/no)</th> <th>Questions</th> </tr> </thead> <tbody> <tr> <td>Labour market test (LMT)</td> <td>Yes</td> <td> 1. Employees, seasonal workers, temporary workers and posted workers need to undergo the labour market test. Third-country nationals who are willing to take up a job included into the shortage list are not subject to the labour market test. Third-country nationals (i.e. mostly qualified and highly qualified workers) who are not subject to the labour market test are the following: <ul style="list-style-type: none"> - Third-country nationals who meet the criteria for “skills and talents” residence permit (for example: artists and sportsmen); - Third-country nationals who meet the criteria for “EU Blue Card”; - Third-country nationals who meet the criteria for “employee on assignment” residence permit; </td> </tr> </tbody> </table>	Tools	Does your MS apply this tool? (yes/no)	Questions	Labour market test (LMT)	Yes	1. Employees, seasonal workers, temporary workers and posted workers need to undergo the labour market test. Third-country nationals who are willing to take up a job included into the shortage list are not subject to the labour market test. Third-country nationals (i.e. mostly qualified and highly qualified workers) who are not subject to the labour market test are the following: <ul style="list-style-type: none"> - Third-country nationals who meet the criteria for “skills and talents” residence permit (for example: artists and sportsmen); - Third-country nationals who meet the criteria for “EU Blue Card”; - Third-country nationals who meet the criteria for “employee on assignment” residence permit;
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					<ul style="list-style-type: none"> - Young professionals under bilateral agreements. <p>2.</p> <p>a) /</p> <p>b) According to Article R.5221-20 of the Labour Code, when granting or refusing a work permit, the Prefect must take into account the following considerations:</p> <ul style="list-style-type: none"> - The labour market for the occupation and in the geographic area for which the request is being made. It bears in mind the particularities required for the job in question, and steps which the employer has already taken with placement agencies providing public employment services to recruit from those already in the labour market; - the match between the foreigner's qualification, experience, degrees or diplomas and the characteristics of the job which he or she has applied for. <p>c) /</p> <p>3. Preference is given to French nationals and nationals of other EU Member States. A work permit may be issued to a third-country national if no French national or no foreigner already holding the right to work in France can fill the post.</p> <p>4. See above.</p> <p>5. N/A.</p>
			Shortage list	Yes	<p>1. The list of occupations characterised by recruitment difficulties, set by the decree of 18 January 2008 relating to the issuance, without eligibility requirements based on the labour market situation, of work permits to third-country nationals was established on 23 October 2007 following consultations with the social partners. It is the result of work undertaken</p>


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					<p>by the permanent analysis group for labour needs, set up to this effect. This list takes into account several indicators measuring the state of skills shortages in the labour market by group of occupations.</p> <p>Specific lists of occupations have also been established for nationals of certain countries, in the context of bilateral agreements.</p> <p>2. This list, set by the decree of 18 January 2008, includes thirty occupations and is given by region.</p> <p>3. By the Order of 18 January 2008, regional lists of shortage occupations open to third-country nationals were introduced. There are thirty shortage occupations on the regional lists, six of them at national level (i.e. Auditing and accounting control executives; Information technology analysts; Information technology experts; Technical project managers, construction industry; Chief engineers, public buildings and works; Foremen, public buildings and works).</p> <p>The main sectors affected are finance, information technology, construction, electricity and electronics.</p> <p>4. The list is planned to be reviewed in order to be adapted to current labour market needs.</p> <p>5. a) / b) Yes. c) / d) /</p>
			Quotas	No	/

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			Other (national) tools	No	/
	Germany	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour market test (LMT)	No, not beyond the priority check. As a rule, this check can either be waived entirely for skilled personnel or replaced by comparability checks of local working conditions.	<ol style="list-style-type: none"> 1. What categories of TCN workers need to undergo the LMT? In particular, please mention if LMT is applied for highly qualified, TCNs having a profession included into the shortage list, seasonal workers. Please also indicate, what major categories of TCNs are exempted from the requirement to undergo the LMT? 2. How is the LMT applied? <ol style="list-style-type: none"> a) Advertisement (please specify who needs to advertise, where the ad needs to be posted and for how long does the ad need to specify salary) b) Search/comparison with data base of (unemployed) people c) Other (please specify) 3. If a qualified employee is found in national/EU labour market, can an employer reject the candidate and employ a similarly qualified TCN worker? 4. Please specify how the 'Community Preference' rule is implemented? 5. If available, please provide statistics: what proportion of labour market test ends up in finding an employee in national/EU labour market?
			Shortage list	yes	<ol style="list-style-type: none"> 1. How is a profession included into the shortage list? Please specify what criteria it needs to satisfy? For certain professions there is a positive list of the German Federal Employment Agency in accordance with § 6, item 2, sentence 1, no. 2, German Employment Regulations. The analysis of 17th June 2013 carried out by the German Federal Employment Agency about the shortage of skilled workers serves as a basis for the selection of the professions


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					<p>appearing in the positive list. The professions that have been selected on the basis of the results derived from the analysis of the shortage of skilled workers for the positive list are those that do not already have other possibilities to access the labour market, e.g. the EU Blue Card for university graduates.</p> <p>A distinction between regular and shortage occupations is also made for university graduates who are entitled to receiving the EU Blue Card. The shortage occupations correspond to the groups 21, 221 and 25 of the International Standard Classification of Occupations ISCO-08.</p> <p>2. How many professions are in the list (data for 2013)? If possible compare with 2008.</p> <p>In 2013, the list of shortage occupation for the EU Blue Card included 58 occupational groups. Currently, this only affects university graduates of both sexes with a German or comparable or recognized foreign university degree.</p> <p>In addition, the positive list in accordance with § 6, item 2, sentence 1, no. 2 German Employment Regulations currently includes 18 professional categories in.</p> <p>Both lists did not yet exist in 2008.</p> <p>3. Which professions dominate the list?</p> <p>The positive list of the Federal Agency includes primarily personnel working in the areas of technical occupations (e.g. mechatronics, electrical engineering and so on) and of medical and nursing professions. The shortage occupations for the EU Blue Card include natural scientists, mathematicians and graduate engineers, information and communication technology staff as well as physicians.</p> <p>4. How often is the shortage list revised?</p>
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					<p>The positive list will be adjusted if two successive analyses of the shortage of skilled workers support an amendment of the list. The analysis of the shortage of skilled workers is updated twice a year.</p> <p>5. How are admission and stay procedures facilitated for TCNs workers in the shortage list:</p> <p>a) Facilitated entry (please specify) No</p> <p>b) Exempt from the LMT (yes/no) n/a (as there generally is no LMT for skilled workers – cf. above)</p> <p>c) Exempt from salary thresholds (yes/no) There are lower salary levels in the shortage occupation list for the EU Blue Card (36,192 € instead of 46,400 € of yearly minimum gross salary).</p> <p>d) Facilitated stay (please specify) no</p>
			Quotas		Information will be collected from the most recent EMN Inform
			Other (national) tools	no	Please specify if your country uses any other approaches. Please provide a general description of it.
	Greece	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour market test (LMT)	yes	
			Shortage list	yes	
			Quotas	No	
			Other (national) tools	Yes	As far as the specific issue is concerned, we would like to inform you that we use a kind of the above-mentioned demand driven tools of TCNs workers (LMT, and shortage list). There is a specific procedure somehow similar to LMT and shortage lists, as below:

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					<p>According to Law 3386/2005, job vacancies per specialty, county and duration of employment that can be covered by a third country national are recorded in a report drawn up at regional level in the last quarter of each year. This report is then forwarded to the Ministry of Employment and Social Protection and communicated to the Ministry of Interior. On the basis of these reports the Ministry of Employment and Social Protection is drawing up together with the Ministries of Foreign Affairs and Interior, a Joint Ministerial Decision which defines the maximum number of residence permits for work allocated each year to nationals of third countries, per type and duration of employment and other pertinent details. The decision shall be communicated to the relevant regions, the Employment Service, the Ministries and the relevant Greek consular authorities. So, an employer, who wishes to employ a third-country seasonal work, provided that the corresponding position is foreseen in the Joint Ministerial Decision, must submit an application to the territorially competent Service for Foreigners and Immigration of the Decentralized Administration of the capital of the district in which it is to provide seasonal employment. After considering the request an approval decision is sent to the competent Greek consular authority to issue the respective visa.</p> <p>The above mentioned Joint decision of the Ministers of Interior, Foreign Affairs, Regional Development and Competitiveness and Labour and Social Security which is issued in the last quarter of every second year, is determined the maximum number of jobs for highly qualified labour granted to citizens of third countries, by region and specialty. This ministerial decision is taken after having considered, (a) the opinion of the Economic and Social Committee (b) of the Employment Agency and (c) a recommendation from the regions of the country, at the request of the Ministers of Interior and Labour and Social Insurance relating to existing labour needs for highly qualified personnel in the Greek territory. These needs are determined mainly based on the following criteria: the interests of the national economy, the importance of employment, labour supply from national, European citizens or legal residents of third countries citizens by specialty and unemployment rates by sector of employment. Based on the above suggestions / opinions Ministry of Labour and Social Security expedites the issuance of a joint ministerial decision, taking into account the relevant reports, and the interest of the national economy.</p>
	Hungary	Yes	Tools	Does your MS	Questions

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			apply this tool? (yes/no)	
			Labour market test (LMT)	<p>1. In line with Section (1) Article 7 of Act IV of 1991 (hereinafter referred to as Employment Act) a third-country national, as defined in Aliens Act, with the exceptions set out in Section (2) Article 2 of Employment Act and the relevant Government Decree, may enter into employment in possession of a work permit or an EU Blue Card.</p> <p>Exemptions from the requirement to undergo the LMT set out in Hungarian law are the following:</p> <ul style="list-style-type: none"> • Section (2) Article 2 of the Employment Act defines identical rights and obligations for Hungarian nationals and for persons with refugee status, beneficiaries of subsidiary protection and persons enjoying temporary protection, persons who have been granted immigrant or permanent resident status, and for persons with the right of free movement and residence. Therefore these categories of foreigners enjoy equal treatment with Hungarian nationals, consequently no LMT is applied in their case. Yet the employer has the obligation to notify the regionally competent labour centre of the fact. • Work permits for third-country nationals are regulated by Decree 16/2010. (V. 13.) of the Ministry of Social Affairs and Employment. The rules of employment of third-country nationals necessitating no permission in the territory of Hungary are contained in Government Decree 355/2009 (XII.30). This Government Decree, in its Section (1) Article 2 specifies further cases when the employment of a third-country national necessitates no work permit. <p>Exemptions from the requirement of work permit set out in Government Decree 355/2009 are the following:</p> <ul style="list-style-type: none"> ○ if provisions an international treaty has such effect ; ○ the employment - defined by international agreement - of the branch manager of a company established abroad; ○ work performance as the personnel of the diplomatic (consular) representation, an agency or any other body of foreign government, job performance of close relative of personnel appointed by the sending State member of the representative or other body of, and based on existing between the states reciprocity; ○ employment of personnel or close relative of personnel of international organizations, international intergovernmental organization or international organization recognized by Hungary as an organization operating in the territory of Hungary

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					<ul style="list-style-type: none"> ○ employment of a delegate nominated by Parties of international organizations or a common organ Treaty; ○ perform - occasionally within the thirty -day period not exceeding fifteen working days - installation, repair and warranty activities under private contract concluded with an undertaking established in a third country; ○ employment in the form of posting , secondment work by an employer established in a State of the EEA Agreement, under the cross-border provision of services; ○ employment by a temporary work agency established by a State of the EEA Agreement; ○ work of an executive officer or a member of the supervisory board of a business entity with foreign shares; ○ work under the tender for postdoctoral jobs, and under the János Bolyai Research Scholarship; ○ employment organized by the international student organization for third-country national higher education students in the framework of professional practice ; ○ employment of full-time student of a Hungarian higher education institution. secondary school, and elementary art education institutions; ○ foreign language educational activities in primary, secondary and tertiary educational institutions which take place within the framework of international education programs signed by the responsible Ministers of the States; ○ carrying out clergy or church services; ○ employment of refugees, persons subsidiary protection or temporarily protected person recognition suitor, and employment at the reception centre of persons under non-refoulement; ○ educational, scientific or artistic activities for not longer than ten working days per calendar year; ○ research activity subject to an agreement certified by the Hungarian Academy of Sciences; ○ employment of third -country nationals participating in an internship under the Comenius, Erasmus, Leonardo da Vinci and Grundtvig programs; ○ widow of a Hungarian citizen, who lived together in Hungary for at least one year before the death of the deceased spouse; ○ research activities carried out on the basis of the hosting agreement with an
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					<p>accredited research organization under the provisions of special legal provisions;</p> <ul style="list-style-type: none"> ○ sport activities of professional athletes and coaches; ○ employment of close relatives of those residing in Hungary on the basis of the NATO-SOFA agreement; ○ employment of persons holding a valid residence permit and legally residing in Hungary for at least one year as family members for the purposes of family reunification with a third-country national, provided that the sponsor is employable without a permission; ○ employment of a family member of a person holding a refugee status, subsidiary protection, or of a parent or guardian of a recognized refugee unaccompanied minor, provided that the person has a valid residence permit issued for family reunification. <p>Exemptions from the requirement to undergo the LMT set out in Decree 16/2010. (V. 13.) of the Ministry of Social Affairs and Employment are the following:</p> <ul style="list-style-type: none"> ○ within the framework set out in international agreements , ○ work of key personnel in the performance of third-country nationals , ○ maximum five per cent of the personnel of measured at the end of the previous calendar year of a business entity with foreign majority ownership; ○ close relative of the personnel of a foreign diplomatic mission in lack of reciprocity; ○ educational , scientific or artistic work purposes in excess of ten working days in any calendar year of internationally recognized third-country nationals invited by higher education institutions, research institutes and educational institutions; ○ employment of third-country national family members of non EU Blue Card holders employed in Hungary for at least 8 years, provided that they lived together in for a minimum of five years; ○ employment of a spouse of a refugee, person with subsidiary protection or temporary protection, long-term resident living with the spouse for at least one year in Hungary, ○ employment of the widow of a refugee, person with subsidiary protection or temporary protection, long-term resident, and a person with the right of free movement and residence, who lived in Hungary for at least one year before the death of the deceased spouse;
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				<ul style="list-style-type: none"> ○ commissioning, repair and warranty activities - occasionally within the thirty-day period in excess of fifteen working days - under a private contract concluded with an undertaking established in a third country; ○ employment of third -country nationals allowed by the Hungarian Office of Immigration and Nationality; ○ employment outside the reception centre of persons under non-refoulement if allowed by the Hungarian Office of Immigration and Nationality; ○ employment of non-personnel by international organizations, diplomatic, consular or other foreign government agencies; ○ employment by the motion picture for film production; ○ for introductory training if its duration does not exceed three months within a calendar year; ○ educational activities carried out parallel to research activities by the researcher with hosting agreement of an accredited research institution; ○ employment of the family member of an EU Blue Card holder; ○ if the employer submits the application of the extension of a work permit at least 15 days before its expiry and the application is for employment at the same employer, for the same activities and at the same work place. <p>2. As set out in Section (1) Article 4 of Decree 16/2010 (V. 13.) of the Ministry of Social Affairs and Employment, an individual work permit is to be issued provided:</p> <ul style="list-style-type: none"> - the employer had possessed a valid workforce request for the job to be done prior to filing the application for the employment of the third-country national; - no job-seekers were found to meet the conditions set out in the Employment Act and its implementing decrees and defined by the employer's request; - the third-country national meets the conditions set out in applicable law and defined by the employer's request. <p>A workforce request shall be considered to be valid if the employer submitted it together with the application, or maximum 60 days prior to the application, or – if submitted earlier – it had been extended maximum 60 days prior to the application.</p> <p>The employer has an obligation to forward the workforce request to the labour office prior to, or simultaneously with the application for employment, supplemented with a description and conditions relative to the vacancy. Based on this information the competent labour authorities shall first try to find appropriate matches among the Hungarian and other EU citizens seeking employment.</p> <p>3. If an unemployed person sent by the employment services matches the requirements set out by the employer, the unemployed person needs to be employed. If this rule is not followed,</p>
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					<p>and the employment fails due to reasons in the sphere of interest of the employer, or if the employer simply refused to employ the sent unemployed person, the application for the work permit of a third-country national for that specific job is refused by the employment services. Consequently there might be cases when the employment of the sent unemployed person fails due to reasons outside the sphere of interest of the employer, but in this case it has to be proved by the employer.</p> <p>4. Based on the information stated by the employer in its workforce request, the competent labour authorities shall first try to find appropriate matches among the Hungarian and other EU citizens seeking employment.</p> <p>Unfortunately no such statistics are available as the reason for such refusal is set out with further refusal reasons in one sentence, therefore the statistics about the refusal based on that specific sentence does not only contain this specific reason (finding a competent employee), but others as well, and no selection of the specifically needed data could be arranged.</p>
			Shortage list		Hungary only applied shortage lists when it provided a gradual liberalisation of the national labour market for Romanian and Bulgarian citizens right after their accession to the European Union. Presently shortage lists are not applied when authorizing third-country national to work on the territory of Hungary
			Quotas		<p>As set out in Article 3 of Decree 16/2010 (V. 13.) of the Ministry of Social Affairs and Employment the sum total of third-country nationals employed with work permit or EU Blue Card (simultaneously employed third-country nationals) cannot exceed the monthly average of number of workforce requests filed in the year prior to the referenced year. This maximum figure is to be issued by the Minister of Economy in Magyar Közlöny (Hungarian Journal) until 1 February of the referenced year at the latest.</p> <p>According to the communique of the Ministry of National Economic Affairs (Nemzetgazdasági Minisztérium, NGM) in 2012 the maximum number of third-country nationals that may take up employment simultaneously with work permit or EU Blue Card is 85,000. In 2011 the total number of issued – individual and seasonal agricultural – work permits was 10,556. This clearly indicates that the number of work permits that may have been issued in line with the above described formula is a multiple figure of actually issued ones. Consequently, the ceiling figures thus set impose no impediment whatsoever in the way of the employment of third-country nationals.</p>
			Other (national) tools		-
	Ireland	Yes	Tools	Does your MS	Questions

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			apply this tool? (yes/no)	
			<p>Labour market test (LMT)</p> <p>Yes</p>	<p>1. What categories of TCN workers need to undergo the LMT? In particular, please mention if LMT is applied for highly qualified, TCNs having a profession included into the shortage list, seasonal workers. Please also indicate, what major categories of TCNs are exempted from the requirement to undergo the LMT?</p> <p>When an employer is applying for a Work Permit Employment Permit, evidence is generally required to be provided that a LMNT has been undertaken for the vacancy. The Green Card Employment Permit, which is designed to attract highly skilled people into the labour market with the aim of encouraging them to take up permanent residence in the State, does not require a LMNT prior to issue.</p> <p>2. How is the LMT applied?</p> <p>a) (The prospective employer is required to advertise the vacancy with the Department of Social Protection Employment Services (www.welfare.ie) /EURES employment network for at least 2 weeks and in a national newspaper for at least 3 days and also in either a local newspaper or jobs website (separate to DSP/EURES websites) for 3 days. The Department of Social Protection Employment Services employment network ensures national coverage while the EURES (European Employment Services) network advertises the vacancy across the EU.)</p> <p>b) Separately, Department of Social Protection is also proactive in matching skills on the live register with job vacancies.</p> <p>3. If a qualified employee is found in national/EU labour market, can an employer reject the candidate and employ a similarly qualified TCN worker?</p> <p>No</p>

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				<p>4. Please specify how the 'Community Preference' rule is implemented? Employment Permit's Policy holds that it is imperative that every opportunity is afforded to Irish and other EEA nationals to fill a vacancy in the labour market in the first instance. This is also in accordance with EU obligations and recognises that Ireland's labour market is part of a much greater EEA labour market which affords a considerable supply of skilled workers. The observance of these requirements is carried out through the LMNT.</p> <p>5. If available, please provide statistics: what proportion of labour market test ends up in finding an employee in national/EU labour market? No statistics available</p>
		Shortage list		<p>1. How is a profession included into the shortage list? Please specify what criteria it needs to satisfy? The Highly Skilled Occupations List is updated biannually based on shortages identified in the National Skills Bulletin, an annual publication released by Forfás (the policy advisory board for enterprise, trade, science, technology and innovation), and the from data in the Vacancy Overview Annual Report, a publication of the Expert Group on Future Skills Needs.</p> <p>2. How many professions are in the list (data for 2013)? If possible compare with 2008. 76 (2013)</p> <p>3. Which professions dominate the list? ICT professionals, engineering professionals, medical professionals, natural scientists, financial and accounting professionals</p>



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				<p>4. How often is the shortage list revised? Every six months.</p> <p>5. How are admission and stay procedures facilitated for TCNs workers in the shortage list:</p> <p>a) Facilitated entry - Since 15 July 2013 the Department of Justice and Equality has been providing for Highly Skilled Job Interview Authorisations on a pilot basis. TCN workers, who have been selected for interview for an occupation on the Highly Skilled Occupations list, will, subject to normal immigration requirements and procedures, be granted permission to enter the State on a temporary basis (up to a maximum of 90 days from date of arrival). During this period, successful interviewees may apply for an Employment Permit and await the outcome of the application.</p> <p>b) Exempt from the LMT (yes/no) Depends on the type of EP being applied for. See 1 above.</p> <p>c) Exempt from salary thresholds (yes/no) No</p> <p>d) Facilitated stay – Green Card Employment Permit holders can apply for immediate family reunification from the Irish Naturalisation & Immigration Service of the Department of Justice and Equality and once their spouses / dependants are resident in the State they are eligible to seek any employment and apply to the Department of Jobs, Enterprise and Innovation for a Spousal / Dependant Employment Permit which is currently issued free of charge. Permit holders may apply to the Irish Naturalisation & Immigration Service for permission to reside and work without the requirement for an Employment Permit upon completion of the Green Card's duration.</p>
			Quotas	Information will be collected from the most recent EMN Inform.

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			Other (national) tools		
	Italy	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour market test (LMT)		<ol style="list-style-type: none"> 1. All categories of TCN workers included in the quota system need to undergo the LMT. Therefore, this does not apply to highly qualified workers, who are always exempted from quotas. 2. As per article 22 of the Consolidated Act on Immigration, the competent Employment Center informs the other local Centres about the offer and advertises it on the Internet as well as by using all possible tools. After 20 days all applications submitted by national and EU workers are forwarded to the Single Desk for Immigration in charge of the procedure. 3. Not applicable. 4. EU citizen are entitled to equal treatment as nationals. 5. N/A.
			Shortage list		Not applicable.
			Quotas		Yes (Information will be collected from the most recent EMN Inform.)
			Other (national) tools		Nothing to report.
	Latvia	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour market test		<ol style="list-style-type: none"> 1. Latvia applies LMT as a general rule for those third-country nationals who are going to be employed in Latvia. There are several exemptions from this rule:


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			(LMT)	<ul style="list-style-type: none"> - applicants for the EU Blue card; - persons, employed on the basis of an agreement between companies (contracts on providing of services etc.); - persons, employed in the sphere of culture or art; - teachers/professors in accredited education establishments; - IT specialists in leading positions; - sportsmen/coaches; - truck drivers – international road carriers; - persons, employed in regulated professions in civil aviation; - students (allowed to work for 20 hours per week); - experts, advisors in state or municipal establishments; - board/council members of enterprises; - posted workers; - persons, applying for a repeated residence/work permit at the same employer and in the same occupation. <p>2. How is the LMT applied?</p> <p>An advertisement should be published by an employer in State Employment Agency data base. It should be available for a period of 30 days. The salary is a mandatory requisite of the advertisement. If the salary mentioned in the work contract with a third-country national is higher than in the advertisement, the issuance of the residence/work permit can be denied.</p> <p>Other (please specify)</p> <p>a) If a qualified employee is found in national/EU labour market, can an employer reject the candidate and employ a similarly qualified TCN worker? – There is not an explicit prohibition to employ third-country national included into Latvian national legislative acts, however the Community preference principle should be applied according to EU Treaty and Accession Treaty.</p>
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					<p>b) Please specify how the ‘Community Preference’ rule is implemented? – See above – it has not been implemented explicitly, however the principle should be followed.</p> <p>c) Statistics is not available. From our observations it seems that if employer has decided to employ a third-country national, cases where national of Latvia or the EU will be hired, are really occasional.</p>
			Shortage list		Latvia does not apply this measure.
			Quotas		Latvia has not set up any kind of quotas.
			Other (national) tools		Not applicable.
	Lithuania	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour market test (LMT)		<p>6. TCN workers arriving to Lithuania for work purposes need to undergo the LMT, except those who are exempted from the requirement to have a work permit. Highly qualified workers need to receive the decision from the Labour Exchange office on job compliance with the needs of the Lithuanian labour market, quite similar to the LMT. Workers included into the shortage list need to undergo the LMT, too. The company wishing to employ more than 5 specialists should notify the Labour exchange office at least 3 months in advance.</p> <p>7. Major categories:</p> <ul style="list-style-type: none"> - Researchers; - TCNs who register a company and are employed as directors/heads of that company; - Intra-corporate transferees;


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					<ul style="list-style-type: none"> - Short term workers (up to 3 months) who arrive for negotiations, training of personal, installation of equipment; - Workers from companies registered in EU countries and posted to Lithuania; - Workers who are employed under international agreements on youth exchange, as a trainee or intern; - Sportsmen - Other. <p>8. How is the LMT applied?</p> <p>a) The employer needs to post the advertisement in the data base of the Labour exchange office for 30 days. Advertisement for highly qualified workers needs to be posted for 21 days in the data base of the Labour exchange office, as well as in the employer's website, news paper or other means of communication. The salary may be specified.</p> <p>b) No</p> <p>c) N/A</p> <p>9. No. If the employer refuses to employ in the national labour market found qualified worker, a work permit for the same foreign specialist will not be issued.</p> <p>10. The advertisement is also put into the EURES data base. As a general rule the ad is in local language.</p> <p>11. This data is not collected.</p>
			Shortage list		<p>1. The main mechanism used to assess the shortages of labour is the analysis of the registered labour supply (unemployment) and demand (jobs). The list of understaffed occupations is drafted based on the following criteria:</p> <ul style="list-style-type: none"> - High demand for labour: the demand for labour is twice that of the supply of labour available; - Difficulties in filling vacancies: the job has been vacant for more than 3 months or there has been no labour supply, meeting the necessary

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					<p>skills for more than 3 months;</p> <ul style="list-style-type: none"> - Analysis of professions of foreigners employed in Lithuania. <p>2. 2013- 5. 2008 – 60.</p> <p>3. Long-fright drivers, cooks, shift builders. Mainly mass and blue color professions.</p> <p>4. Twice a year.</p> <ul style="list-style-type: none"> a) No, general procedure is applied. b) No c) No. Salary of a third country worker cannot be less than a salary of the Lithuanian citizen working at the same position d) Yes. Aliens within a shortage list can renew his/her work permit while staying in Lithuania. The maximum time period s(he) can stay in Lithuania is 4 years (all other workers can stay up to 2 years).
			Quotas		Information will be collected from the most recent EMN Inform.
			Other (national) tools		Please specify if your country uses any other approaches. Please provide a general description of it.
	Luxembourg	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour market test (LMT)		<p>1. Only salaried workers need to undergo the LMT. Highly qualified workers are exempted from the requirement to undergo the LMT, but the post must be declared vacant by the employer at the Agency for the Development of Employment (ADEM). They do not have to be in a short list to be excluded from the LMT.</p> <p>In the case of seasonal workers the employer must post the vacancy and it will be submitted to the LMT, especially to the “Community preference”. Researchers, posted workers, transferred workers and sportsmen are excluded from the LMT.</p> <p>2. Formerly, the LMT was done in the scope of the examination of an application for an</p>


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				<p>authorisation to stay. The procedure was modified by the law of 18 January 2012 which creates the Agency for the Development of Employment (ADEM). Since then, the LMT is made in addition to the examination of the application of the authorisation of stay.</p> <ol style="list-style-type: none"> a) The employer has to declare the vacancy of the post to the ADEM. If the agency in the following three weeks from this declaration has not proposed to the employer a suitable candidate who fulfills the profile required, the employer can ask the ADEM a certificate which certifies the right to hire for this position a person of his/her choice. This certificate has to be issued in a 5 day period from the request of the employer. b) The ADEM will do the LMT against its own database and other databases at its disposal. c) In the declaration of vacancy made by the employer s/he must establish the profile s/he is looking for and the salary has to be included. <ol style="list-style-type: none"> 3. In principle if the ADEM finds a qualified employee who is a European national and fulfills the profile, the employer only can refuse the worker if he has a valid reason of why this person does not fulfill the profile required. 4. The ADEM performs the LMT to determine if a person available on the national or European labour market can fill the vacancy that was posted by the employer. The Minister of Immigration can request the Consultative Commission of Salaried Workers to render an advice if s/he considers that the conditions foreseen by article 42 (1) of the Law of 29 August 2008 are not fulfilled. 5. To be provided
			Shortage list	<ol style="list-style-type: none"> 1. In Luxembourg up to now, there has not been any shortage list of specific professions. <p>Article 1 al. 2 of the Grand-ducal regulation of 25 January 2012 modifying Grand-ducal regulation of 26 September 2008 establishing the minimum remuneration for highly qualified workers in accordance with the Law of 29 August 2008 on free movement of persons and immigration indicates that for jobs in occupations belonging to groups 1 and 2 of the "International Standard Classification of Occupations" (ISCO) for which a particular need for workers from third countries is</p>

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					<p>recognized by the government, the minimum salary threshold (1,2 times the annual gross average salary) can be applied.</p> <p>This list has to be established by a regulation of the Government Council and must be published in the Mémorial. It must be revised yearly (article 1 alinea 5). For the moment such a list has not been published yet.</p> <p>Luxembourg has not foreseen any short list for other categories of workers.</p> <p>2. None. Since the Law of 29 August 2008 on free movement of persons and immigration entered into force (1 October 2008) there has not been any single shortage list published.</p> <p>3. N/A</p> <p>4. As mentioned in 1, normally the shortage list for highly qualified workers has to be reviewed yearly if it exists.</p> <p>5. a) N/A b) N/A c) As mentioned in 1, including a profession in the shortage list for highly qualified workers allows the employer to hire a highly qualified worker in the profession included on the list using the lower salary threshold (1,2 times the average gross yearly salary). d) N/A</p>
			Quotas		Answer is already in the recent EMN Inform.
			Other (national) tools		
	Malta	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour market test (LMT)	yes	1. What categories of TCN workers need to undergo the LMT? In particular, please mention if LMT is applied for highly qualified, TCNs having a profession included into the shortage list, seasonal workers. Please also indicate, what major categories of TCNs are exempted from the

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					<p>requirement to undergo the LMT?</p> <p><i>All TCNs except:</i> <i>Positions in the Gaming Industry</i> <i>Construction</i> <i>Audit Firms / Accountants</i> <i>IT</i> <i>Nurses / Health / Doctors / Specialists</i> <i>Chefs – Oriental/Specialised</i> <i>Intra Corporate Transferees</i> <i>Internships</i> <i>High Ranking Positions (Directors; General Manager; CEO's; Other managers on a case by case basis);</i> <i>Same employers / company abroad;</i> <i>Parastatal (such as the University);</i> <i>Bulgarian & Romanians nationals (except for such posts as room attendants; cleaners; waiters, bartenders etc)</i></p> <p>2. How is the LMT applied?</p> <p>a) Advertisement (please specify who needs to advertise, where the ad needs to be posted and for how long does the ad need to specify salary)</p> <p>Employer needs to show that the post has been advertised. Furthermore, we (the PES) place the advert for 18 days on the PES website and on the EURES website. CV's are collated and then forwarded to the employer for feedback. Depending on the feedback, a decision is then taken of whether to issue the permit to the TCN or not.</p> <p>b) Search/comparison with data base of (unemployed) people c) Other (please specify)</p> <p>3. If a qualified employee is found in national/EU labour market, can an</p>
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				<p>employer reject the candidate and employ a similarly qualified TCN worker?</p> <p>The PES would reject the application not the employer.</p> <p>4. Please specify how the 'Community Preference' rule is implemented? If we feel that there are ample EU nationals able to do the job, the work permit application is refused. This information is usually available to us through information collated from the unmatched vacancies.</p> <p>5. If available, please provide statistics: what proportion of labour market test ends up in finding an employee in national/EU labour market? Stats not available, thought this is relatively low.</p>
			Shortage list	<p>1. How is a profession included into the shortage list? Please specify what criteria it needs to satisfy? This is mainly based on discussions with major players in a given industry. Once a number of vacancies in a given industry are not fulfilled through the unemployment register, a series of meetings with key players are held to assess the situation. We also try and identify what training needs would be required to re-skill local workforce.</p> <p>Furthermore, we constantly analyze unmatched vacancies. This gives a good indication of posts that cannot be filled over time.</p> <p>2. How many professions are in the list (data for 2013)? If possible compare with 2008. Listed above.</p> <p>3. Which professions dominate the list? 4. How often is the shortage list revised? regularly</p> <p>5. How are admission and stay procedures facilitated for TCNs workers in the shortage list: a) Facilitated entry (please specify)</p>

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					<p>b) Exempt from the LMT (yes/no) YES</p> <p>c) Exempt from salary thresholds (yes/no) we do not have salary thresholds</p> <p>d) Facilitated stay (please specify) n/a</p>
			Quotas		Information will be collected from the most recent EMN Inform.
			Other (national) tools		Please specify if your country uses any other approaches. Please provide a general description of it. no
	Netherlands	Yes	<p>Labour market test</p> <p>1. Most categories of TCN workers, for example seasonal workers, need to undergo the labour market test (LMT). However, there is no LMT for highly qualified workers. Other major categories that are exempted from the LMT are scientists, international corporate personnel and trainees.</p> <p>2. a. The employer must advertise in the Netherlands or European Economic Area (EEA) for a period of 3 months. For positions that are difficult to fill the employer must demonstrate that he has made every possible attempt over the course of three months to find personnel, using every possible channel such as internet, advertisement in specialist publications or newspapers and employment agencies. The advert needs to mention the salary.</p> <p>b. There is a search in a data base of the national unemployment agency.</p> <p>c. -</p> <p>3. No</p> <p>4. If a qualified employee for the Netherlands/EEA is available for a certain job no work permit is issued for a TCN worker.</p> <p>5. In 2011 4098 work permits were issued after LMT, in 2012 2430 work permits were issued after LMT.</p> <p>Shortage list</p> <p>There is no shortage list in the Netherlands</p> <p>Other national tools</p> <p>The Netherlands has a highly skilled migrants regulation. This migrant must earn a minimum gross income of 52.010 euro (30 years and above) and 38.141 euro under the age of 30 years. The income criterion does not apply if the employee is hired by an educational or research institute, or is a postgraduate student or university lecturer younger than 30 years. An employer who hires a highly skilled migrant is not required to obtain a work permit for this foreign national employee, who nonetheless must have a residence permit.</p> <p>Employers have to have a contractual agreement with the IND that allows them to employ highly skilled migrants.</p>		

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	Poland	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour market test (LMT)	Yes	<p>1. What categories of TCN workers need to undergo the LMT? In particular, please mention if LMT is applied for highly qualified, TCNs having a profession included into the shortage list, seasonal workers. Please also indicate, what major categories of TCNs are exempted from the requirement to undergo the LMT?</p> <p>As a rule, LMT is a prerequisite to grant an A-type work permit (for a foreigner who performs work on the basis of a contract with an entity that is based within the territory of the Republic of Poland), Blue Card and, since it is implemented in 2014, a single permit. However, there are certain cases exempted from the LMT requirement such as for instance :</p> <ul style="list-style-type: none"> - foreigner worked for the same employer on the basis of work permit concerning the same post; - foreigner worked for the period of minimum 3 months under ‘simplified procedure’ (see below); - vacancy to be filled in by foreigner is on the shortage occupation list (regional level); - work in the domestic sector to be performed by a national of Belarus, Georgia, Moldova, Russia or Ukraine; <p>LMT is not applied when work permits types B, C, D, E are to be issued (for members of boards of legal entities and for posted workers). Obviously, LMT is not applied whenever work permit is not required (there are numerous exceptions to the work permit requirement; the most important is so called simplified procedure which entitles foreigners of 5 countries (Belarus, Georgia, Moldova, Russia and Ukraine) to perform short-term work without a work permit).</p> <p>2. How is the LMT applied?</p>


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					<p>a) <i>Advertisement (please specify who needs to advertise, where the ad needs to be posted and for how long, does the ad need to specify salary)</i> The employer submits a vacancy notice/job offer to the local labour office. Vacancy notice should not specify requirements not adequate for a certain position. The notice should specify i.e. the remuneration offered.</p> <p>b) <i>Search/comparison with data base of (unemployed) people</i> The local labour office searches data base of unemployed and job-seekers.</p> <p>c) <i>Other (please specify)</i> When there are potentially interested unemployed or job-seekers in the data base, the labour office arranges recruitment process. If there are no appropriate candidates, the district authority (starosta) issues an information that it cannot provide an appropriate candidate.</p> <p>3. <i>If a qualified employee is found in national/EU labour market, can an employer reject the candidate and employ a similarly qualified TCN worker?</i> The employer can reject the candidate, but if there are not justified reasons, the district authority (starosta) cannot issue an information referred to under question 2 and therefore a work permit cannot be granted.</p> <p>4. <i>Please specify how the 'Community Preference' rule is implemented.</i> The job offer submitted in local labour office is available for all unemployed persons and job seekers registered on the territory of Poland.</p> <p>5. <i>If available, please provide statistics: what proportion of labour market test ends up in finding an employee in national/EU labour market.</i> N/A</p>
			Shortage list	Yes	<p>1. <i>How is a profession included into the shortage list? Please specify what criteria it needs to satisfy?</i> Shortage lists are established on the regional level, taking into account the current situation on the local labour market and deficits of the workforce in specific branches (number of the unemployed persons as compared to</p>



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				<p>job offers available in such branches).</p> <p>2. <i>How many professions are in the list (data for 2013)? If possible compare with 2008.</i> Numbers vary between regions.</p> <p>3. <i>Which professions dominate the list?</i> Professions vary between regions.</p> <p>4. <i>How often is the shortage list revised?</i> There is not time limit established.</p> <p>5. <i>How are admission and stay procedures facilitated for TCNs workers in the shortage list:</i> <i>e) Facilitated entry (please specify)NO</i> <i>f) Exempt from the LMT (yes/no) YES</i> <i>g) Exempt from salary thresholds (yes/no)NO</i> <i>h) Facilitated stay (please specify) NO</i></p>	
			Quotas	No	
			Other (national) tools	Yes	<p>Wage criteria are applied to issue a work permit: as for A-type work permit, the amount of remuneration must not be lower than remuneration of employees performing work of comparable type or on comparable work post;</p> <p>- as for TCN posted to Poland, the wage offered to the foreigner must not be lower than 70 percent of the average wage in the region of Poland where they are expected to perform their duties.</p> <p>Another prerequisite to issue a work permit for a TCN posted to Poland is that the foreign employer obeys the rules defined in accordance with the directive 96/71.</p>
	Portugal	Yes	<p>Labor Market Test (LMT) 1)Setting quotas for the entry of TCN workers until 2007 was carried out through the analysis of the Labor Opportunities Report and was based on criteria of labor market needs in general; skilled labor needs in key sectors for the national economy; skilled labor needs for seasonal activities and geographical weighting opportunities, according to the reception capacity of each district.</p>		

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			<p>Since 2007 the admission in national territory for TCN workers for the exercise of a professional subordinate activity, has a limit of quotas which are defined by a global contingent annually set by a Council of Ministers Resolution.</p> <p>There is not an activities sectors distribution.</p> <p>Presently there isn't a defined global contingent.</p> <p>2 c) Even there are defined quotas for the TCN citizens they only may work in Portugal if they are employed by employers which are located in the national territory, and only in the event that there are no national, community or foreigners citizens with legal residence in Portugal that can perform the desired functions, on respect for the principle of priority stipulated by the national legislation.</p> <p>Exceptionally, and regardless of whether the global contingent may be set, it can be issued a visa when they met the principle of priority mentioned above.</p> <p>2 d) The access of the TCN citizens to the exercise of subordinate work in national territory, regardless the title's nature, may be authorized, with the stipulation that the job's offer is primarily met by the national workers, the UE workers or foreigners workers with legal residence in Portugal.</p> <p>3) The priority given to workers referred above is considered verified when the labor offer advertised by the public employment service, is not filled by the preference workers, within 30 days, from the notification date of the employer.</p> <p>As an evidence of the compliance with the priority principle and for the visa application for the exercise of a subordinated professional activity, the public employment service issues a specific statement.</p> <p>4) In the first 2013 semester, were issued by the Public Employment Service, 829 statements relating to vacancies referred as international recruitment which after verification of the priority principle, were not met by the nationals, EU or foreigners citizens with legal residence in Portugal.</p>		
	Romania	Yes			
	Slovak Republic	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour market test (LMT)	Yes	1. All third country nationals who wish to work in the SR, including highly qualified workers and seasonal workers need to undergo the LMT. However the Act on Employment Services defines certain categories of third country nationals in which cases the LMT is not executed. This includes: posted workers, workers defined under the WTO regulations, clerics, workers conducting continuous educational or research activities as pedagogical employees or research employees, trainees, young people under the age of 26 within the exchange between schools or within the youth exchange programmes. The Act on Employment Service also defines the category of third country nationals who do


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				<p>not need a work permit to work in Slovakia (the complete list is available here http://mic.iom.sk/en/work/employment/88-kto-potrebuje-pracovne-povolenie-na-slovensku.html).</p> <p>The SR does not have shortage list or set quotas for third country nationals.</p> <p>2.a) The employer reports via regular mail, fax or electronically the vacancy to the relevant local office of labour, social affairs and family (according to the place of the employment) at least 14 days before the application for the work permit is submitted. This report contains also information on the salary. The vacancy is then advertised by the local office of labour, social affairs and family in the office register, in the registers of other labour offices in the SR, on the office website, on the information board in the office premises, or in the regional news (if this is provided for free) and on the EURES portal. The vacancy is advertised maximum for 6 weeks from the date of the report.</p> <p>2.b) Search in the databases of unemployed persons and comparison of conditions.</p> <p>2.c) It is also verified if via provision of further education or course for the preparation to the labour market it is not possible to place an unemployed person from the database of the offices of labour, social affairs and family. While granting the work permit the situation on the labour market is taken into account as well as the expected development on the labour market.</p> <p>3. In principle in this case the applicant for the work permit will be not granted the work permit. He/she will be granted the work permit only in case when the employee would prove in a satisfactory way that it is inevitable to employ this third country national. This proof can be taken into account by the office of</p>
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				labour social affairs and family in the process of granting the work permit.
				4. The SR is sending the information on vacancies to the European portal EURES. The job applicant coming from among the citizens of EU MS has the opportunity within 14 days to react to this vacancy, before the third country national/or his/her employee on his/her behalf applies for the work permit.
				5. We do not have such statistical data.
			Shortage list	No a. How is a profession included into the shortage list? Please specify what criteria it needs to satisfy? b. How many professions are in the list (data for 2013)? If possible compare with 2008. c. Which professions dominate the list? d. How often is the shortage list revised? e. How are admission and stay procedures facilitated for TCNs workers in the shortage list: i) Facilitated entry (please specify) j) Exempt from the LMT (yes/no) k) Exempt from salary thresholds (yes/no) l) Facilitated stay (please specify)
			Quotas	No Information will be collected from the most recent EMN Inform.
			Other (national) tools	NA Please specify if your country uses any other approaches. Please provide a general description of it.
	Slovenia	Yes		


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	Spain	Yes			
	Sweden	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour market test (LMT)	Yes.	<ol style="list-style-type: none"> 1. There is no agency-based labour market test in Sweden. However, when a Swedish employer wishes to recruit a worker (third-country national) from a third-country, he/she is required to advertise the job in Sweden and the EU for at least ten days before the job can be opened to recruitment from a third-country. This applies to all jobs, irrespective of qualifications required. Certain categories of third-country nationals can be hired without previous advertisement when they are already residing in Sweden, for example <ul style="list-style-type: none"> - Third-country nationals who already hold a permanent residence permit in Sweden, - Third-country students who hold a residence permit to attend a college or university, - Third-country visiting researchers, - asylum seekers who have received an exemption from the obligation to hold a work permit, - citizens of the Nordic countries. 2. How is the LMT applied? <ol style="list-style-type: none"> a) Advertisement: Yes. The employer needs to advertise an open position for at least ten days in Sweden and the EU. The easiest way to do this is to post an advertisement in the database of the Swedish Employment Agency (Arbetsförmedlingen), which will automatically also post it in EURES. There is no legal requirement to state the salary in the advertisement. b) Search/comparison with data base of (unemployed) people: No. c) Other (please specify): No. 3. If a qualified employee is found in national/EU labour market, can an employer reject the candidate and employ a similarly qualified TCN worker? Yes. 4. Please specify how the 'Community Preference' rule is implemented? Community preference is ensured, as outlined above, through the requirement to advertise an open position in Sweden and the EU for at least ten days. Usually, this is done by advertising the job in the database of the Swedish Employment Agency (Arbetsförmedlingen), which will automatically also post it in EURES. 5. If available, please provide statistics: what proportion of labour market test ends up in finding

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			Shortage list	No. (There are shortage lists in Sweden. However, they are mainly used for evaluation and forecasting purposes. They are not used to determine whether an employer may recruit a worker from a third-country or not.)	an employee in national/EU labour market? The Swedish EMN Contact Point is not aware of any such statistics. 1. How is a profession included into the shortage list? Please specify what criteria it needs to satisfy? Not applicable. 2. How many professions are in the list (data for 2013)? If possible compare with 2008. Not applicable. 3. Which professions dominate the list? Not applicable. 4. How often is the shortage list revised? Not applicable. 5. How are admission and stay procedures facilitated for TCNs workers in the shortage list: a) Facilitated entry (please specify) not applicable. b) Exempt from the LMT (yes/no) not applicable. c) Exempt from salary thresholds (yes/no) not applicable. d) Facilitated stay (please specify) not applicable.
			Quotas		Information will be collected from the most recent EMN Inform.
			Other (national) tools	Yes.	The Swedish system for labour immigration from third countries is employer-led, open for all levels of qualifications, and government interference is restricted to a minimum. Thus, there are no shortage lists, quotas or other regulatory mechanisms used for determining whether an employer may recruit a worker from a third country or not. However, employers are required to offer salaries and working conditions that comply with the levels under Swedish collective agreements or are in line with established practice within the occupation/sector in question.
	United Kingdom	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour	Yes	1. The Resident Labour Market Test (RLMT) applies to the Tier 2 (General) category, which is the main route for TCN workers applying to work in the UK.


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			market test (LMT)	<p>Major categories that are exempted:</p> <ul style="list-style-type: none"> - Entrepreneurs - Exceptional Talent - Intra-Company Transfers - Senior employees paid at least £152,100 - Sportspeople - Representatives of Overseas Businesses - UK Ancestry - Youth Mobility Scheme - Government Authorised Exchange (research, training and work experience schemes) - International Agreement <p>Alternative RLMT arrangements apply to:</p> <ul style="list-style-type: none"> - Creative sector workers - Religious workers - Workers recruited through university milkrounds <p>2. How is the LMT applied?</p> <ol style="list-style-type: none"> a) The sponsoring employer must advertise the job for at least 28 days. Ads must be placed via Universal Jobmatch (an online government service) and at least one other medium (which can be a national newspaper, relevant professional journal or prominent recruitment website). Ads must include an indication of the salary on offer. b) No, although Universal Jobmatch allows employers to do this if they choose. c) N/A <p>3. The employer can only reject a resident worker candidate if they do not meet the requirements stated in the ad, or if the job is skilled to PhD level.</p> <p>4. EEA nationals are included in the definition of “resident workers”. Ads posted to Universal Jobmatch are also put onto EURES.</p> <p>5. Not available.</p>
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			Shortage list	Yes	<p>1. The independent Migration Advisory Committee (MAC) makes recommendations to the UK Government. The MAC applies several tests which are grouped into three main criteria:</p> <ul style="list-style-type: none"> - Is the job skilled (broadly to graduate level)? - Is there a shortage of resident workers with the necessary skills? - Is it sensible to fill some of that shortage with migrant workers? <p>There is one shortage occupation list covering the whole of the UK, plus a list of additional occupations in shortage in Scotland.</p> <p>2. 2013 – 32, 2008 – 27. However, only specified jobs in each occupation are included. The list in 2013 is more tightly focused and represents fewer jobs in the UK economy (180,000 compared to 700,000 in 2008).</p> <p>3. Doctors, engineering professionals, teachers in maths/physics/chemistry, skilled chefs.</p> <p>4. Usually once every two years, sometimes more frequently.</p> <p>5. How are admission and stay procedures facilitated for TCNs workers in the shortage list:</p> <ul style="list-style-type: none"> a) Workers in shortage occupations are given first priority when allocating places in the annual limit. b) Yes. c) Not at entry, but workers in shortage occupations are exempt from a salary threshold when applying for permanent residence. d) See above.
	Croatia	Yes			<p>a. What categories of TCN workers need to undergo the LMT? In particular, please mention if LMT is applied for highly qualified, TCNs having a profession included into the shortage list, seasonal workers. Please also indicate, what major categories of TCNs are exempted from the requirement to undergo the LMT?</p> <p>In the Republic of Croatia, a labour market test is not applied for any category of third-country nationals. Pursuant to the Aliens Act (Croatian Official Gazette No 130/11 and 74/13), the Government of the Republic of Croatia adopts the Decision on the annual quota for the employment of aliens (third-country nationals).</p>

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			<p>b. How is the LMT applied?</p> <p>a. Advertisement (please specify who needs to advertise, where the ad needs to be posted and for how long does the ad need to specify salary)</p> <p>b. Search/comparison with data base of (unemployed) people</p> <p>c) Other (please specify)</p> <p>The tests are not applied since stay and work permits are granted on the basis of annual quotas for the employment of aliens.</p> <p>c. If a qualified employee is found in national/EU labour market, can an employer reject the candidate and employ a similarly qualified TCN worker?</p> <p>Yes.</p> <p>d. Please specify how the 'Community Preference' rule is implemented? -</p> <p>e. If available, please provide statistics: what proportion of labour market test ends up in finding an employee in national/EU labour market? -</p> <p>a. How is a profession included into the shortage list? Please specify what criteria it needs to satisfy?</p> <p>On the basis of legislation stipulating the work of aliens in the Republic of Croatia and the established quota system, each year the Government of the Republic of Croatia determines a quota of work permits for the employment of aliens in the next calendar year.</p> <p>In this regard, a number of activities are carried out, including the analysis of the number of work permits issued to aliens by economy sectors and professions, the analysis of the number of unemployed individuals pertaining to professions for which work permits have been issued, as well as the detailed analysis of employment rate and real possibilities of unemployed individuals of the said professions registered at the Croatian Employment Institute to be employed.</p>
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			<p>On the basis of the said analysis, a number, which seems realistic according to the planned activities within a particular economy sector, is proposed for permits in the said quota for each year.</p> <p>b. How many professions are in the list (data for 2013)? If possible compare with 2008.</p> <p>In 2008, 5,897 work permits were granted for the employment of aliens, the majority of which pertained to the construction (3,630) and shipbuilding (1,700) sectors. In 2013, not a single work permit has been granted in the said sectors for the employment of aliens since there is a high unemployment rate of Croatian nationals in these sectors on the Croatian labour market.</p> <p>c. Which professions dominate the list?</p> <p>In the 2008 annual quota, the professions from the construction and shipbuilding sector dominated the list, while in 2013 the greatest number of professions have been foreseen for tourism and catering industry.</p> <p>d. How often is the shortage list revised?</p> <p>The Decision on the employment of aliens is adopted in the current year for the next year and the said list is not revised in the course of the said year.</p> <p>e. How are admission and stay procedures facilitated for TCNs workers in the shortage list:</p> <p>i. Facilitated entry (please specify)</p> <p>Aliens have to apply for a stay and work permit at a diplomatic mission/consular post if they are required to have a visa to</p>
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			<p>enter the Republic of Croatia. There is an advantage that an employer can apply for a stay and work permit on behalf of an alien at a competent police administration/police station.</p> <p>ii. Exempt from the LMT (yes/no)</p> <p>Yes.</p> <p>iii. Exempt from salary thresholds (yes/no)</p> <p>The annual quota for the employment of aliens does not prescribe a salary threshold for aliens who obtain their stay and work permit within the quota.</p> <p>d) Facilitated stay (please specify)</p> <p>-</p>		
	Norway	Yes	Tools	Does your MS apply this tool? (yes/no)	Questions
			Labour market test (LMT)	Yes	

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					<p>3. If a qualified employee is found in national/EU labour market, can an employer reject the candidate and employ a similarly qualified TCN worker? No.</p> <p>4. Please specify how the 'Community Preference' rule is implemented? N/A</p> <p>5. If available, please provide statistics: what proportion of labour market test ends up in finding an employee in national/EU labour market? N/A</p>
			Shortage list	No	
			Quotas	Yes	Information to be found in the most recent EMN Inform.
			Other (national) tools	No	Please specify if your country uses any other approaches. Please provide a general description of it.
