

**ESTONIAN MIGRATION FOUNDATION**

**EUROPEAN MIGRATION NETWORK**

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

**SMALL SCALE STUDY III**

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## 1. EXECUTIVE SUMMARY

According to the Statistics Estonia's population statistics the population of Estonia in year 2005 was 1.35 million, comparing to the year 2000 Estonia's population has been reduced by about 24.5 thousand. Mainly it is due to the very low birth rate throughout the mid 1990s till 2004. Estonia has a particular situation in the EU since 1/3 of the population has foreign origin. The major part of it migrated to Estonia from the territory of the former Soviet Union during 1945–1988 (205 thousand). In 2005 the biggest national groups after Estonians were Russians (346 thousand), Ukrainians (28 thousand), Belorussians (16 thousand) and Finnish (11 thousand). Major part of these migrants does not hold Estonian passport.

In the year 2005 there were 607 thousand employed persons aged 15 to 74 in Estonia; 503 thousand of them had Estonian and 104 thousand other citizenship. Among "others" there were 37 thousand holding Russian citizenship and the citizenship of the rest is not specified. The unemployment rate among Estonian citizens was 6.2% and among others 15.2%.

Since Estonia re-established its independence, the immigration numbers have dropped down considerably and immigration issue has found very little attention, if not to say it has been an unpopular and therefore untouched political issue. Estonia as many other EU Member States very soon will experience the labour force shortage due to the big numbers of retired people. This means that already in the next few years every working person will have a considerable overburden to cover the expenses of the retired generation.

In addition, after joining the EU and accepting the Free Movement of Labour and Services Act Estonia is facing increased emigration trend, because we cannot yet compete with the average salaries in the old member states of EU. Partly as a result of that there are already appearing problems in labour force supply in certain sectors and if we want at least to maintain the present economic growth, quick decisions have to be taken. One of the measures can be the changes in immigration policies that would allow more labour from the third countries in simplified conditions to Estonia. For such a small country as Estonia wrong decisions have a tremendously quick effect, therefore it is extremely important to evaluate and forecast the immigration capacity very accurately.

Experts mainly tend to be in the position that Estonian foreign labour force policy has to be strict. It is explained with the difficulties that Estonia would face when integrating new immigrants into our society. As Estonia is still having major problems with the integration of Soviet period migrants, it is a widespread opinion that we first have to solve the existing integration problems and only after that we can be more open for additional immigration. Estonia simply does not have means to guarantee social security for new immigrants. There are also some expert opinions that third country labour immigration would be economically efficient only in short-term. The partners of social dialog have different opinions. The working group was recently formed at the Ministry of Economy and Communications. The aim of the group is to simplified procedure of application for the short-term work permits to third countries' workers. However it is too early

for results. Hopefully soon there will be constructive debate in our society. An important part of the study has been presenting the legislation that regulates the third country labour immigration to Estonia.

Definitions of highly-skilled and skilled workers are missing in Estonian legislation and there are no specific rules for entry and/or residence of highly-skilled third country workers but there are listed some categories of short-term workers who are allowed to work in Estonia on the basis of their visa and without work permit for max 6 months in year. The named categories qualify as highly-skilled workers – scientists, teachers, lectures, experts, advisers, researches, councillors, consultants, creative persons, sportsmen, etc. As admission is linked to a specific job, applying an immigration quota for short-time workers is not needed. For longer working period the residence permits for employment are needed. As Estonia has not defined the category of highly-skilled workers the general rules for all categories are the same. The annual immigration quota is the quota for aliens immigrating to Estonia which shall not exceed 0.05% of the permanent population of Estonia annually. The immigration quota does not apply to the aliens who are ethnic Estonians, citizens of the European Union, the United States of America, Norway, Iceland, Switzerland and Japan. The Minister of Internal Affairs may, on a reasoned proposal of the concerned minister, exempt specific person from the immigration quota if their arrival in Estonia is necessary in the national interests for economic, educational, scientific or cultural development.

The actual form and quality of migration statistics received from Statistics Estonia and the Citizenship and Migration Board registers, do not allow in large extent to present and analyse the data as required in the study specification. Therefore the presented data often helps to describe Estonia's migration situation in indirect way only and the conclusions drawn are considerably indirect as well. As during recent years Estonia has rather become a labour emigration country, it is important to track first of all, how much labour force of which sectors and of which qualification Estonia has lost. Therefore data requests in this respect have been done to policy and decision makers. To enrich the data quantity and quality, comparable data from Finland were searched as well.

Finally, some problem solving strategies have proposed, especially what concerns the quality of migration statistics in Estonia, and the cooperation between different migration-coordination agents, in order to indicate, how Estonia could improve its system to satisfy better the real requirements for data, information and cooperation in international migration field.

The study is based on information provided by various institutions, such as the Ministry of Social Affairs, the Ministry of Interior, the Ministry of Foreign Affairs, the Ministry of Economy and Communication, the Citizenship and Migration Board, Estonian Labour Market Board, Statistics Estonia, and other government agencies, public information on websites, publications, articles from newspapers, TV-Forums and seminars related to migration, especially to immigration of the third country highly-skilled workers.

## **2. INTRODUCTION: THIRD COUNTRY HIGHLY-SKILLED WORKERS IN ESTONIA**

The topic of the third small scale study of the European Migration Network (EMN) is «**Conditions of Entry and Residence of Third Country Highly-Skilled Workers in the EU**».

According to the Work Programme for the preparatory action under the 2005 EMN budget, two further small scale studies are foreseen. It was agreed (EMN 15<sup>th</sup> meeting) to undertake Small-Scale Study III covering the topic of highly-skilled workers mainly because of its strong relevance to the recently published Policy Plan on Legal Migration (COM (2005) 669 final), and, in particular, to the proposed development of a directive on conditions of entry of third country highly-skilled workers. The timing of this small-scale study would fit very well into the development of such a proposal (e.g. for the impact assessment on the need for such a directive).

Specifications were prepared by the Commission, which also incorporated the suggestions made by some EMN Members for such a study. EMN Members were also involved in the development of these specifications, and this current version represents the consensus.

The aim of the study is to make contribution to the development of a proposed directive on the conditions of entry of third-country highly-skilled workers (HSW) to the EU by providing an overview of the current status and needs in the contributing Member States.

EMN will prepare the Synthesis Report on the basis of the country studies. The Synthesis Report will aim, through a systematic comparative method, to identify the similarities and differences in the approaches of the Member States in this respect using the Country Studies, thus leading towards a concise overview of the phenomenon. This information leads towards a better understanding of the phenomenon.

Implementation of this small scale study will also help the participating EMN National Contact Points (NCP), the administrative and scientific co-ordinator of the EMN and the Commission to further assesses both the action-oriented research capacity of the network and the extent to which current working structures should be modified.

In addition to the general aims, Estonia also has some country specific aims when composing this report. Firstly, the authors of this report would like to assure that the situation of immigration in Estonia will not be understood and evaluated by simply looking at the modest figures of immigrants during the last decade, but in its historical context. Between the years 1945 and 1988 ca 205 thousand citizens of the Soviet Union migrated to Estonia from different parts of the Union.

Today the heritage of the ex-soviet nationals and their descendants (the second and the third generation) in Estonia is ca 408 thousand (30%) of the whole Estonia's population of 1.35 million (Statistics Estonia, Population Statistics 2005). As the latest statistics about the holders of Estonian citizenship is not available, we have to refer to the Population Census of the year 2000 that counts a bit less than 1.1 million people with Estonian citizenship living in Estonia six years ago. At the same time among the people without Estonian citizenship there were 86 thousand Russian citizens and over 170 thousand stateless persons, most of them originally from different parts of the former Soviet Union, who, from the point of view of our study, mostly classify as third country nationals.

Additionally, the authors of this report would like to address the results of this study to the Estonian policy makers. In the past 15 years, since Estonia established its independence again, the immigration issue has been paid very little attention, if not to say that it has been an unpopular and therefore untouched political issue. However, in the situation where the population in the whole EU is getting older and the countries are experiencing extremely low birth rates, Estonia is not an exception. In addition, after joining the EU and accepting the Free Movement of Labour and Services Act Estonia has had a high rate of emigration, because it cannot yet compete with the average salaries in the old member states of the EU. Partly as a result of that, problems have already been appearing in labour supply in the certain sectors and if Estonia wants at least to maintain the present economic growth, quick decisions have to be taken. One of the measures could be the changes in the immigration policies that would allow more labour from the third countries on more favourable conditions to Estonia. For such a small country as Estonia wrong decisions have a tremendously quick effect, therefore it is extremely important to evaluate and forecast the immigration capacity very accurately. This study will provide certain evaluation to the quality of migration statistics in Estonia that hopefully will give a clear message to the policy makers.

The shortage of labour in some sectors in the nearest future is also connected to the changes in education system in Estonia. Namely, throughout the 1990s and to some extent up to date the vocational and technical education has been paid too little attention whereas the academic higher education and especially the humanitarian subjects have been the priority. Therefore, today and in the nearest future there will be oversupply of the specialists of arts and humanities and a shortage of technical specialists. The Central Organisation of Estonian Employers is of the opinion that this fact will be the reason for increasing labour emigration from Estonia, because the above mentioned specialists will not be able to find proper jobs in Estonia or re-train for technical professions that would require a long time.

Almost every day since August mass-media has been featuring articles on the subject of foreign force labour. The opinions (perceptions) and standpoints are very different varying from the ideas of mass export of the labour force into

Estonia to its full rejection. The standpoints of the parties in social dialogue derive from their approach to the problem and interests. Below there are some quotes:

- **The Prime Minister Andrus Ansip** (The Reform Party): There is no point in bringing foreign labour to Estonia; on the contrary, we should invest into the increase of production since our productivity is twice lower than that of Finland and Sweden. First of all, we have to use this resource. Export of foreign labour force is a good temptation, which, however, brings along very big problems. (Newspaper “*Võrumaa Teataja*”, September 12, 2006). )

- **Minister of Economy and communications Edgar Savisaar** (The Central Party): In the short perspective, the use of immigrant workers is favourable for the development and economic growth of Estonian enterprise; although in the long perspective mass recruitment of immigrant workers will cause problems on national level in addition to the social problems. The goal is to increase the average salary in the public sector to 25000 croons a month in the next 4 years. “The fast salary increase policy also falls in line with the IMF idea to take decisions that would speed up the inflation in the near future while the Estonian national currency is croon, because after the transition to Euro we will be more dependent on the macroeconomic decisions than we are today.” (Newspaper *EPL* of September 16, 2006).

- **The economic experts of Tartu University Raul Eamets and Urmas Varblane**: The main problem of our economy is low efficiency and low productivity. The salary increase should not be faster than the increase in productivity. If the salaries increase faster than productivity, enterprises will not be able to keep up with the salary rally and part of the employers will simply have to resign. The productivity is low because of the old technology. What is advertised here as the latest western technology is the technology of yesterday in understanding of the western countries, because no one is going to sell Estonia the latest technology or we just cannot afford it. (Newspaper *EPL* of September 27, 2006)

- **Confederation of Estonian Trade Unions (EAKL)** is critical about the changes made to the Aliens Act in part of immigrant workers: “Already the adopted changes to the Aliens Act significantly give way to cheap immigrant labour force and decrease of salaries. Professionals and technicians can be brought into the country without work permits or quota for six months with the permission of the Minister for Internal Affairs if this is in the state’s interests. There is definitely control over the number of immigrant workers in Estonia, so that the Minister for Internal Affairs knows at the end of the year how many visas he has issued. At the same time there is no control over the immigrant workers’ salaries. Only the payment of the minimum salary can be controlled, because the majority of the collective contracts do not exist on the state scale.”

- **Head of Chamber of Commerce and Industry, Mr Siim Raie**: The lack of specialists in Estonia can only be relieved by the salary increase, which would attract the Estonians from abroad back home. Estonia is not planning to open up its labour market to the citizens of third countries. Estonia should stick to the conservative migration policy. (Newspaper “*Äripäev*” of September 4, 2006)

• **Head of the Estonian Employers' Confederation, Mr Tarmo Kriis:** Up to the year 2010 Estonia needs about 100 000 new workers, among whom would be local as well as foreign specialists. The lack of labour force in the short term is already significantly felt in several sectors, so it is time for the state to get down dealing with the problem. Especially needed are transport workers, construction workers, factory workers, in other words workers to replace those who have gone abroad or to fill up the positions which Estonians do not want to take. If the responsibilities between the state and the employer are carefully divided, simplification of the procedure for issuing work visas and permits should not be a problem. (Speech at a seminar in Sept 21, 2006).

The political parties at power would welcome the arrival of immigrant workers if the state could guarantee that these workers and their relatives do not somehow undermine the social support system in Estonia. The parties in opposition are firmly against immigrant workers and they support the simplification of the entry procedures only in terms of very highly qualified labour force. Entrepreneurs are in favour of simplifying the procedure for arrival of any kind of labour force in Estonia. The state and the trade unions stress the maximum use of the existing labour force and risk groups (disabled, unemployed, older age people) instead of the labour force export. At the moment only the import of highly qualified and skilled foreign labour is considered justified. The trade unions hold to the opinion that it could be worthwhile to recruit the specialists which do not exist in Estonia and who are economically profitless to train here; as well as that before opening the labour market for foreigners all the locals should have a chance to get jobs if they are interested in. In the areas where foreign labour force is unavoidable, there should be control as to what kind of specialists, how many of them and for how long are allowed to enter the country. The topic of equal treatment and the social guarantees for the immigrant workers has not been discussed yet.

A work group has been recently established in the Ministry of Economy and Communications whose task is to discuss the possibilities of simplification of the foreign labour recruitment process, although the solution has not been found yet.



### **3. METHODOLOGY**

This Report is based on the EMN Small Scale Study III (SSS-III) Specifications and Structure. From the methodological point of view this research is the so-called secondary desk-research type of work: no research or polls have been conducted specially for the purposes of this Report. To map out the situation with the third country highly-skilled and skilled workers in Estonia the authors planned to collect the statistics from different offices, review the migration related legislation and special regulations, get familiar with the studies on the topic and follow up the discussions in the media.

The preliminary idea was to gather the statistics on immigration from the Estonia's Population Statistics and the Population Census as well as from the Citizenship and Migration Board (CMB) and the Labour Market Board (LMB) registers. Legislative Acts and studies were available on special websites.

As it is explained in more detail in the statistics chapter, the actual form and quality of the migration statistics received from the Estonian Statistical Office and the CMB registers, does not allow presenting and analyzing the data as required in the study specification. Therefore, in many cases the report presents the data that helps to describe Estonia's migration situation in an indirect way and the conclusions that are often indirect as well. The prognosis and researches for the future need of labour force are made by the Labour Market Board and the Ministry of Economy and Communication. This information is used in this study.

The data and indicators on the same subjects obtained from various institutions are in some cases very different, not to mention their interpretation. Even the definition of the work-aged population presents a problem: in the statistics they are identified as people from 15 to 74 years of age, while the research "Labour Forecast until the Year 2012" conducted by the Ministry of Economy and Communication identify as work-aged people who are 15 to 64 years old. Indicators are not always explained or defined.

The definition of highly-skilled and skilled workers is missing in Estonian legislation and there are no specific rules for entry and/or residence of highly-skilled third country workers (or they exist only for limited categories, such as IT, scientists, sportsmen, etc.).

There are no educational levels and experience defined for working in certain professions in private sector. It is the matter of companies to set their requirements in the job descriptions. What concerns the public sector, then the requirements are set, however, there are no terms like highly-skilled or skilled workers defined in general. Also the legislation that concerns immigrants and more specifically third country immigrants in Estonia avoids those terms and talks only about special professions without mentioning anything about their skills. Statistical indicators only refer to the educational level or professional field, but

never combine them. Labour studies tend to categorize the labour into a) specialists, combining ISCO-88 professionals and technicians and associate professionals and b) skilled workers, combining skilled agricultural and fishery workers, craft and related trades workers and plant and machine operators and assemblers. As specialists and skilled workers may not be necessarily equalized with highly-skilled or skilled workers, the latter terms cannot be used in this study unequivocally and tendentiously.

As, especially during the recent years, Estonia has become a labour emigration country, it is important to track first of all, how much labour of which sector and of which qualification Estonia has lost. Therefore data requests in this respect have been made to policy and decision makers. To enrich the data quantity and quality, comparable data from Finland was searched as well. Data was requested from the Finnish Statistical Office, the Directorate of Immigration and several trade unions like the Confederation of Unions for Academic Professionals in Finland (AKAVA) and the Central Organisation of Finnish Trade Unions (SAK).

What concerns the earlier migration studies conducted in Estonia; those do not cover the topics that are crucial for the study. It has to be taken into account, that as Estonia has joined the EU very recently, the topic of the third country labour immigration has been paid very little attention so far. However, there are a few studies that have been found somewhat relevant to refer to.

An important part of the study has been presenting the legislation that regulates the third country labour immigration to Estonia.

As the third country labour immigration has just recently become topical in Estonian society, there are also discussions in the media, ideas of the topic related expert seminars organized by the Estonian Migration Foundation, opinions of politicians and specialists presented and interpreted in this study.

Finally, some problem solving strategies have proposed, especially what concerns the quality of migration statistics in Estonia, and the cooperation between different migration-coordination agencies, in order to indicate, how Estonia could improve its system to satisfy better the real requirements for data, information and cooperation in the international migration field.

The study is based on information provided by various institutions, such as the Ministry of Social Affairs, the Ministry of Interior, The Ministry of Foreign Affairs, the Ministry of Economy and Communication, the Ministry of Education and Research, the Citizenship and Migration Board, Estonian Labour Market Board, Statistical Office of Estonia, and other government agencies, The Foundation for Lifelong Learning Development Innove, public information on websites, publications, articles from newspapers, TV-Forums and seminars related to migration, specially to immigration of the third country highly-skilled workers.

#### 4. **NATIONAL LEGISLATION FOR MIGRATION OF THIRD COUNTRY HIGHLY-SKILLED WORKERS TO ESTONIA**

During the recent years the major changes in Estonian migration policy have resulted from Estonia's accession to the European Union. Since 1 May 2004 the issues related to migration are governed by two legal instruments – the **Citizen of European Union Act**, which provides the basis for the stay of the European Union citizens and their family members in Estonia, and **Aliens Act** which regulates the conditions of entry and stay of the citizens of third countries in Estonia.

Among the most important acts directly related to migration, there are also the **Republic of Estonia Employment Contracts Act** (consolidated text December 2004), **Working Conditions of Workers Posted in Estonia Act** (2004), **Recognition of Foreign Professional Qualifications Act** (consolidated text January 2005) which should be noted. There are also several acts outside the direct scope of migration that still have a certain impact on, for instance, the **Citizenship Act** (consolidated text March 2004), **Language Act** (consolidated text Dec 2003), etc.

The category of “highly-skilled workers” and “skilled workers” are not defined in Estonian legislation. The law only lists professions and some of them can be considered as “highly-skilled workers” and as “skilled workers” according to the specifications for Small Scale Study III.

There are no specific rules for entry and/or residence of third country highly-skilled workers in Estonian legislation, but there are some categories of short-term workers listed who are allowed to work in Estonia on the basis of their visa and without work permit for max 6 months. The named categories qualify as highly-skilled workers – scientists, teachers, lectures, experts, advisers, researchers, councillors, consultants, creative persons, sportsmen, etc. As admission is linked to a specific job, there is no need to apply an immigration quota for short-time workers in this case. The information about the short-time work in Estonia can be found on the website of the Citizenship and Migration Board: <http://www.mig.ee/eng/work/shortterm/>

#### **Short-time employment is stated in the Aliens Act § 13<sup>2</sup>**

##### **The regulations and criteria are the following:**

An alien who has a legal basis (visa or international agreement) to stay in Estonia, except for a residence permit, whose employment has been registered with the Citizenship and Migration Board pursuant to the procedure provided by a regulation of the Minister of Internal Affairs before employment commences, and whose time of employment does not exceed the period of six months per year may be permitted to take employment in Estonia without being issued a work permit or a residence permit in the following cases:

- For employment as a teacher or lecturer in an educational institution which

complies with the requirements established by legislation, by invitation of the educational institution;

- for artistic activities or scientific research, if the alien has appropriate professional training or experience for such activities;
- for making a direct investment, foundation of a branch of a foreign company in Estonia, or performance, by way of rotation, of the right of representation or directing functions in a company registered in Estonia and belonging to an international group of undertakings;
- in the capacity of a sportsman, coach, referee or sports official in order to engage in professional activities, by invitation of a corresponding sports federation;
- for employment as an expert, adviser or consultant, provided that the alien has appropriate professional training for such activities;
- for employment as an installer of equipment or a skilled worker if the alien has acquired professional training therefore and it is necessary that the alien works in Estonia, arising from national interests, on the proposal of a member of the Government of the Republic on the basis of a decision of the Minister of Internal Affairs;
- for activities in the framework of an international program of co-operation involving agencies with state or local government participation;
- or participation in seasonal work involving the processing of primary agricultural products;
- for employment as *au pair* or domestic help;
- for employment for vocational training purposes by way of field training;
- for employment as service personnel of a diplomatic representation of a foreign state, by permission of the Ministry of Foreign Affairs.

An alien who has a legal basis to stay in Estonia, except for a residence permit, may be permitted to take employment in Estonia without being issued a work permit or a residence permit and without registering short-time employment in the Citizenship and Migration Board for a period of up to six months as a member of the management body of a legal person registered in Estonia with the duty to perform directing or supervisory functions.

An alien who has a legal basis to stay in Estonia, except for a residence permit, whose employment has been registered with the Citizenship and Migration Board pursuant to the procedure provided by a regulation of the Minister of Internal Affairs before employment commences may be permitted to take short-time employment in Estonia without being issued a work permit or a residence permit under the conditions provided for in an international agreement.

In the cases and under the conditions provided for in an international agreement ratified by the Riigikogu (Estonian Parliament), an alien need not register his or her short-time employment.

For a longer working period **residence permits for employment** are needed. As Estonia has not defined the category of highly-skilled workers, the general rules for all categories are the same.

**Residence permits for employment are stated in the Aliens Act § 13<sup>3</sup>**; Quote:

(1) For taking employment on the basis of a residence permit, an alien is granted the right to stay in Estonia for the purpose of employment on the conditions determined by the residence permit.

(2) A residence permit for employment may be issued to an alien for employment with an employer registered in Estonia if the vacant position has not been filled, within the period of two months, by way of public competition and making use of the services of a state employment agency, by employing an Estonian citizen or an alien residing in Estonia on the basis of a residence permit who meets the requirements for qualifications and professional skills for such position as stated by the employer.

(3) At the request of an employer, the Labour Market Board may grant the employer permission for filling the position by employing an alien if the employer has failed, on the conditions and pursuant to the procedure provided in subsection (2) of this section, to find a suitable candidate and, considering the situation in the labour market, filling the position with an alien is justified.

(4) An employer who wishes to fill a position by employing an alien shall obtain permission therefore from the Labour Market Board and confirm his intention to employ the alien to the Citizenship and Migration Board, after which the Citizenship and Migration Board may, in co-ordination with the Labour Market Board, issue a residence permit for employment to the alien for the purpose of assuming the said position, provided that the alien has the requisite qualifications, training, state of health, work experience, necessary professional skills and knowledge to assume such position, that the issue of a residence permit to the alien is justified and that no other circumstances exist in respect of the alien which are the basis for refusal of issue of the residence permit to the alien.

(5) A residence permit for employment shall be issued for the period during which the employer guarantees employment in Estonia to an alien but not for longer than two years.

(6) The conditions on which an alien is permitted to take employment in Estonia shall be determined by the residence permit for employment which shall set out, as a minimum requirement, the name of the employer, the place of work and the position. A residence permit for employment is not valid for taking employment in Estonia unless the conditions on which the alien is permitted to take employment in Estonia are set out therein.

(7) In order to be issued a residence permit for employment, the salary or wage earned by an alien must be sufficient for his or her subsistence in Estonia.

(8) An alien is required to register his or her residence in Estonia in the population register within one month after entry in Estonia or commencement of stay in Estonia on the basis of a residence permit.

(9) A residence permit for employment may be extended if the alien continues to meet the conditions on which he or she was issued the residence permit, the alien has actual residence in Estonia and the alien's previous activities have been in compliance with the requisite conditions set for issue of the residence permit.

(10) Issue of a residence permit for employment is refused if the conditions provided in subsections (2)–(4) and (7) of this section have not been met, the employer has tax arrears or a punishment in force for allowing illegal employment, if the employer has failed to perform a notification obligation provided by law or other justified cause to doubt the employer's trustworthiness becomes known, or other circumstances exist in respect to the alien which are the basis for refusal of issue of the residence permit.

(11) Extension of a residence permit for employment is refused or a residence permit is revoked if circumstances exist which are the basis for refusal of issue or extension of the residence permit, the alien has failed to perform an obligation arising from this Act or other legislation, or a condition for employment determined by the residence permit has changed.

(12) The Citizenship and Migration Board may issue, without application of subsections (2)–(4) of this section, a residence permit for employment to an alien:

- 1) who is a minister of a religion, nun or monk, or with the approval of the Ministry of Internal Affairs, is invited by a religious association;
- 2) who is a journalist accredited by the Ministry of Foreign Affairs;
- 3) whose right to take employment in Estonia without a work permit arises from an international agreement;
- 4) under the conditions specified in clauses 13<sup>2</sup> (1) 1)-7) and 11) and subsection 13<sup>2</sup> (1<sup>1</sup>);
- 5) a posted worker for the purposes of the Working Conditions of Workers Posted in Estonia Act.

(13) In addition to the conditions specified in subsection (6) of this section, the employer's representative and the natural or legal person for which the service in Estonia is provided will be designated in the alien's residence permit for work, if the alien is a posted worker for the purposes of the Working Conditions of Workers Posted in Estonia Act.

(14) The employer for the purposes of whose employment the residence permit was issued to an alien has the obligations of a sponsor.

**Income criteria are stated in the Aliens Act § 13<sup>4</sup> :**

**Issue of residence permits for enterprise:**

- A residence permit for enterprise may be issued to an alien who has a holding in a company or who operates as a sole proprietor, provided that the company or the sole proprietorship is entered in the commercial register of Estonia, and that based on the interests of the state, the intended enterprise is necessary for the development of Estonian economy, and the alien's settling in Estonia is of essential importance to the enterprise.
- A residence permit for enterprise may be issued to an alien who has sufficient monetary resources for engaging in enterprise in Estonia, including capital in the amount of at least 1 000 000 croons controlled by the alien invested in business activities in Estonia, and a business plan which describes the nature and extent of the intended business activities, and sets out the number, requisite qualifications and skills of the staff needed for such activities. The amount of capital which an alien must invest in Estonia in order to be granted permission to operate as a sole proprietor is at least 250 000 croons.

**The annual immigration quota** is the quota for aliens immigrating to Estonia which shall not exceeded 0.05% of the permanent population of Estonia annually. The immigration quota does not apply to the aliens who are ethnic Estonians, citizens of the European Union, the United States of America, Norway, Iceland, Switzerland and Japan. The Minister of Internal Affairs may, on a reasoned proposal of the concerned minister, exempt specific person from the immigration quota if their arrival in Estonia is necessary in the national interests for economic, educational, scientific or cultural development.

**Language requirements for applicants for long-term residence permits** are partly stated in the Aliens Act. According to the Aliens Act permanent residence permits will not be issued anymore. Foreigners who have a permanent residence permit will receive a status of a long-term resident. According to the law, residence permits will be divided into two types: a temporary residence permit and a long-term residence permit. The law foresees that a foreigner who applies for a long-term residence permit has to know the Estonian language at least at the beginner's level.

Until June 1, 2007 applicants for a long-term residence permit will not be required to take the language exam. Thus, anybody who meets the requirements for the permit may apply for such status without any additional demands being placed on them after the amendment to the Aliens Act entered into force on June 1, 2006. People who currently have a permanent residence permit will be issued a long-term residence permit automatically and will not have to fulfil the language requirement. The requirement is not enforced on the citizens under the age of 15 and over the age of 65; individuals who have obtained their basic, secondary or

higher education in Estonian; adults with limited legal capacity; and individuals who are unable to take the language exam due to their health.

During the review of the draft legislation in the Riigikogu (Estonian Parliament), questions were raised regarding the possibility of implementing the integration conditions. The idea of integration requirements is centred on the premise that foreigners who are long-term residents of Estonia should be able to communicate in Estonian. Based on the decision made, passing the elementary language exam will now be required as a condition of integration from 1 June 2007. This means that passing the language exam will not be required of applicants for long-term residence permits up to that time. This is designed to give those people who have lived in Estonia for a long time a reasonable period in which to apply for a long-term residence permit without additional requirements (taking the conditions of obtaining a permanent residence permit as a basis). **The language exam requirement will therefore mostly affect so-called new immigrants only just arriving in Estonia who wish to stay here for a longer term.**

**The exact procedure and conditions for sitting the language exam shall be implemented in cooperation with the Ministry of Education and Research.**

Development of the draft legislation to amend the Aliens Act was the result of Estonia's obligation to bring its laws into conformity with those of the European Union. The goal of the directive on long-term residence status is to harmonize the living and working conditions in the European Union Member States of citizens from the third countries. Estonia has not established any restrictions towards workers from other EU member states. Citizens of other member states do not need a work permit in order to work in Estonia. From the beginning of August 1, 2006 residence permit will not be required either; instead an EU citizen must register his/her place of residence with the Population Register.

**Information on working conditions in Estonia can be obtained from the Labour Inspectorate.** The Labour Inspectorate is a governmental agency operating within the area of government of the Ministry of Social Affairs whose main functions are to:

- arrange for the exercise of state supervision in the working environment over compliance with the requirements of legislation regulating occupational health and safety and labour relations and apply enforcement by the state on the bases and to the extent prescribed by law;
- exercise market supervision over safety of the personal protective equipment in use in the working environment and over ensuring its protective properties at manufacturing and sale;



- exercise supervision over investigations of occupational accidents and diseases and over the implementation of measures for the prevention of occupational accidents and diseases;
- investigate fatal and in case of need serious occupational accidents and diseases and analyse their causes;
- collect statistics of accidents at work and make analysis thereof;
- exercise supervision over the use of genetically modified micro organisms in closed environment to the extent prescribed by law;
- take decisions in cases prescribed by law on giving or withholding an approval; carry out administrative proceeding, approve administrative acts and rules; carry out extrajudicial proceeding of misdemeanour to the extent prescribed by law; commence criminal proceedings and carry out urgent investigative actions; carry out and resolve petitions of persons on working environment issues; resolve individual labour disputes pursuant to procedure prescribed by law.

**Quality of work life.** The defining of quality of work life involves three major parts: occupational health care, suitable working time and appropriate salary. The safe work environment provides the basis for the person to enjoy working. The work should not pose a health hazard for the person. The employer and employee, aware of their risks and rights, could achieve a lot in their mutually beneficial dialogue. The working time has been established by the state according to legislation which is a 40-hour working week in Estonia. The standard limits on overtime, time of vacation and taking of free days before national holidays have been separately stipulated. The differences regarding the working time have been established for the persons less than 18 years of age, pregnant women, breast-feeding mothers and the person raising the disabled child. The appropriate salary is agreed upon by the employee and the employer. The Government of the Republic establishes each year the rate of minimum salary; the employer should not pay less than that to the employee. Work represents such a role in life which has been designated to it by the person himself. On the one hand work is an earning of one's living for the family, on the other hand it could be a self-realization providing enjoyment and satisfaction.

## **5. PROGRAMMES FOR ATTRACTING THIRD COUNTRY HIGHLY-SKILLED WORKERS**

**There are no special programmes for attracting third country highly-skilled workers in Estonia.**

Partly the projects of the Foundation for Lifelong Learning Development **Innove** can be considered as a program for attraction of highly-skilled workers. Innove is helping (contacts and funding) to bring foreign university teachers and professors from the EU as well as from the third states to Estonian universities. Foundation Innove has been established to promote initiatives and activities of lifelong learning through Estonian and EU programmes in the area of human resources development.

During the current project period there 22 out of total 46 projects, where Estonian universities are involved (Tartu University – 10, Tallinn Technical University – 4, Tallinn University – 3, Estonian University of Life Sciences – 3, Estonian Academy of Arts – 1, and Tallinn Secondary School for the Natural Science – 1 project). The purpose of these projects is to bring foreign university teachers selected from among the top specialists in a certain field to work in Estonian universities on a temporary basis.

What concerns the Estonian entrepreneurs then they search and recruit highly-skilled and skilled workforce in themselves. From the point of view of Estonian entrepreneurs it could rather be said that the Estonian legislation has made it inconvenient enough for the third country highly-skilled workers to deter them from applying work here. The entrepreneurs interested in foreign labour see the main problems with the foreign labour force in the applying procedure: application takes too much time and the requirement of the original signature when applying is unrealistic. If the application procedure can take up to six months, the foreign labour is definitely out of scope for the short term projects. In the situation of high economic competition decisions have to be made quickly, but today Estonian legislation slows down the process that concerns hiring the required labour force.

For these EU citizens who are interested in working in Estonia a job search port EURES is opened. There it is possible to find information about life and work conditions in Estonia and some more general first-hand information in English, Russian and Estonian languages.

So far it can rather been concluded that other countries have made more effort to attract Estonian labour force. For example, in 2002 an Information Centre on Working Life in Finland was set up in Tallinn and maintained by the Central Organisation of Finnish Trade Unions and certain other trade unions. The idea was to provide information about the Finnish labour market for those interested in working in Finland.

## 6. **RIGHTS AND OBLIGATIONS OF THIRD COUNTRY HIGHLY-SKILLED WORKERS**

There are no special rights and obligations for third country highly-skilled workers. Fundamental Rights, Freedoms and Duties are fixed in the **Constitution of the Republic of Estonia** in Chapter II. The most Rights, Freedoms and Duties are equal for Estonian citizens and for the citizens of foreign states and stateless persons in Estonia.

The Constitution allows introducing restricting laws only in a few areas, such as the state social support, choice of profession or work place, running an enterprise, ownership of certain types of real estate, request for information about the state and the local government activities and supply of personal information to the state authorities. The right to be members of the political parties and the right to refuse the supply of information about personal beliefs are provided by the State to the Estonian citizens only.

**Restrictions to the rights of foreign citizens** as they are outlined in the Estonian Constitution. In accordance with the international rights, the right to vote for or to be voted for as a member of parliament lies with Estonian citizens only. On the contrary, the right to vote, but not, however, to be elected, at the local government elections lies with all the permanent residents of the administrative unit. In terms of Europe this is an exceptional right granted to the foreign citizens. Only the Estonian citizens have the right to run for President or Member of Parliament, although the Constitution provides for the exceptions in the legislation that allow foreigners to take up other positions in the state and local governments. Quote:

*§ 9. The rights, freedoms and duties of each and every person, as set out in the Constitution, shall be **equal for Estonian citizens and for citizens of foreign states and stateless persons in Estonia**. The rights, freedoms and duties set out in the Constitution shall extend to legal persons in so far as this is in accordance with the general aims of legal persons and with the nature of such rights, freedoms and duties.*

*§ 10. The rights, freedoms and duties set out in this Chapter shall not preclude other rights, freedoms and duties which arise from the spirit of the Constitution or are in accordance therewith, and conform to the principles of human dignity and of a state based on social justice, democracy, and the rule of law.*

*§ 12. Everyone is equal before the law. No one shall be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. The incitement of national, racial, religious or political hatred, violence or discrimination shall, by law, be prohibited and punishable. The incitement of hatred, violence or*

*discrimination between social strata shall, by law, also be prohibited and punishable./.../*

**§ 15.** *Everyone whose rights and freedoms are violated has the right of recourse to the courts. Everyone has the right, while his or her case is before the court, to petition for any relevant law, other legislation or procedure to be declared unconstitutional. The courts shall observe the Constitution and shall declare unconstitutional any law, other legislation or procedure which violates the rights and freedoms provided by the Constitution or which is otherwise in conflict with the Constitution.*

**§ 19.** *Everyone has the right to free self-realization. Everyone shall honour and consider the rights and freedoms of others, and shall observe the law, in exercising his or her rights and freedoms and in fulfilling his or her duties.*

**§ 20.** *Everyone has the right to liberty and security of person. No one shall be deprived of his or her liberty except in the cases and pursuant to procedure provided by law: /.../*

*6) to prevent illegal settlement in Estonia and to expel a person from Estonia or to extradite a person to a foreign state.*

*No one shall be deprived of his or her liberty merely on the ground of inability to fulfil a contractual obligation.*

**§ 28.** *Everyone has the right to the protection of health. An Estonian citizen has the right to state assistance in the case of old age, incapacity for work, loss of a provider, or need. The categories and extent of assistance, and the conditions and procedure for the receipt of assistance shall be provided by law. Citizens of foreign states and stateless persons who are in Estonia have this right equally with Estonian citizens, unless otherwise provided by law. The state shall promote voluntary and local government welfare services. Families with many children and persons with disabilities shall be under the special care of the state and local governments.*

**§ 29.** *An Estonian citizen has the right to freely choose his or her area of activity, profession and place of work. Conditions and procedure for the exercise of this right may be provided by law. Citizens of foreign states and stateless persons who are in Estonia have this right equally with Estonian citizens, unless otherwise provided by law.*

*No one shall be compelled to perform work or service against his or her free will, except service in the armed forces or alternative service, work to prevent the spread of an infectious disease, work in the case of a natural disaster or a catastrophe, and work which a convict must perform on the basis of and pursuant to procedure established by law.*

*The state shall organise vocational training and shall assist persons who seek employment in finding work. Working conditions shall be under state supervision./.../ The conditions and procedure for the exercise of the right to strike shall be provided by law. The procedure for resolution of labour disputes shall be provided by law.*

**§ 30.** *Positions in state agencies and local governments shall be filled by Estonian citizens, on the basis of and pursuant to procedure established by law. These positions may, as an exception, be filled by citizens of foreign states or stateless persons, in accordance with law. /.../*

**§ 34.** *Everyone who is legally in Estonia has the right to freedom of movement and to choice of residence. The right to freedom of movement may be restricted in the cases and pursuant to procedure provided by law to protect the rights and freedoms of others, in the interests of national defence, in the case of a natural disaster or a catastrophe, to prevent the spread of an infectious disease, to protect the natural environment, to prevent the leaving of a minor or a person of unsound mind without supervision, or to ensure the administration of a criminal procedure.*

**§ 35.** *Everyone has the right to leave Estonia. This right may be restricted in the cases and pursuant to procedure provided by law to ensure the administration of court or pre-trial procedure, or to execute a court judgment.*

**§ 37.** *Everyone has the right to education. Education is compulsory for school-age children to the extent specified by law, and shall be free of charge in state and local government general education schools./.../Parents shall have the final decision in the choice of education for their children. Everyone has the right to receive instruction in Estonian. The language of instruction in national minority educational institutions shall be chosen by the educational institution. The provision of education shall be supervised by the state.*

**§ 55. Citizens of foreign states and stateless persons who are in Estonia have a duty to observe the constitutional order of Estonia.**

According to the judge of the State Court, Doctor of Law, Ms **Julia Laffranque** the Constitution of Estonia is in agreement with the European Convention for Human Rights and the Charter of Fundamental Rights of the European Union. Some rights concerning the equality of rights and solidarity are defined more clearly in the Charter of Fundamental Rights of the European Union than in the Estonian Constitution. For example, the Law on the Equality of Gender has only recently been adopted in Estonia that should improve the law in this part. Some rights, as for example the rights of national minorities, are on the contrary better protected in Estonia and, in particular, in the Estonian Constitution than in the Charter of Fundamental Rights of the European Union.

## 7. EXPERIENCE WITH THIRD COUNTRY HIGHLY-SKILLED WORKERS

Estonia has been member of the EU since May 1, 2004, which is quite a short period for obtaining the necessary experience, which could also be analysed and documented. What can be described are the first observations and some concrete occasions.

The first observation is that right now there have been less requests of permission for the export of foreign specialists. In the first half of this year the companies have placed by 30% less requests for permission of foreign labour into the country that before. About 83% of the permissions were granted to the citizens of the Ukraine. In the first half of the previous year the Labour Market Board received 356 requests compared to this year's 224 (Newspaper "*Eesti Päevaleht*" of August 21, 2006). The number of granted permissions was 347 last year and 224 this year, which means that practically all the request receive a positive decision.

According to the Citizenship and Migration Board (CMB) and the Labour Market Board (LMB), the number of people arriving in Estonia for work from third countries has somewhat decreased.

The LMB's Chief Specialist, Ms **Nele Labi**, said that the reason for this is probably the fact that many workers arrive in Estonia from the EU states, first of all from Poland, and they are not registered if they only spend in Estonia less than 6 months in year. As well, the process of obtaining of all the necessary documents for work in Estonia for workers from outside the EU requires a lot of time.

The Chief Specialist of the Ministry of Economy and Communications (MEC), Ms **Sille Rossi**, notes that compared with the earlier years, nowadays companies tend to bring in only 2–3 workers at a time. The local firms are mostly interested in hiring construction workers from the Ukraine, for example, in Rand & Tuulberg construction company 14 Ukrainian workers have been now employed for a month. It took the company 9 months to receive permission for the Ukrainians to come to work in Estonia.

The MEC has the right to regulate the flow of foreign labour in the certain sectors. Some favourable decisions in terms of foreign labour force arriving in Estonia have been made lately, because the problem of labour force has been acute.

The shipbuilders from the Ukraine have been long known at the BLRT Group (*Baltic Ship Repairers*). According to Mr **Heinart Puhkim**, Personnel Manager of the BLRT Group, 500 shipbuilders have received residence and work permits valid for one, two, three or five years in the period from 1998 until 2006. Lately 50

work permits issued to the Ukrainians have been annulled, since the workers did not wish to continue work in Estonia. This is an important issue from the point of view of the Estonian competitiveness, and according to Mr Puhkim, the procedure for recruitment of labour force for a limited time period should be simplified and sped up. Puhkim: “We have excellent collaboration with the CMB and the LMB; it is the legislation that is by now out of date”.

It is important to mention that after the expiry of the work permit none of the Ukrainians settled down to live in Estonia.

The assessments are only based on the employers’ opinions – no one has researched the foreign workers’ problems and opinions. This is an area which has to be profoundly dealt with.

Integration is a two-way process, in which the arrivals and the hosts have certain rights and obligations. The social partners and the state should cooperate in order to avoid discrimination of the arrivals in terms of salaries and work conditions. The migration policy should provide for a certain legal position and guaranteed rights.

## 8. STATISTICAL DATA

Firstly, it would be informative to give a short overview about Estonia's current labour market situation and to explain some definitions and principles. In the year 2005 there were 607 thousand employed persons in the age of 15–74 in Estonia; 503 thousand of them had Estonian and 104 thousand other citizenship. Among others 37 thousand held Russian citizenship and the citizenship of the rest is not specified. The unemployment rate among Estonian citizens was 6.2% and among others 15.2%.

According to the Estonian principles nationality and citizenship mean different things. Person who has Estonian nationality might be a United State citizen and therefore is a third country national. Another example is people of Russian origin (having Russian nationality) who obtained Estonian citizenship by naturalization or it acquired by birth.

**Table 1. LABOUR STATUS OF POPULATION AGED 15-74 by Indicator and Citizenship 2005**

	Estonian	Other	..Russian	..not specified	Total
Labour force	537200	122400	44000	72000	659600
..employed	503600	103800	36900	61500	607400
..unemployed	33600	18600	7100	10500	52200
Inactive	315400	73600	31400	38800	389000
Labour force participation rate, %	63	62,5	58,4	65	62,9
Employment rate, %	59,1	53	49	55,5	57,9
Unemployment rate, %	6,2	15,2	16,1	14,6	7,9

Source: *Statistics Estonia*

In 2005 the biggest national groups after Estonians were the Russians (346 thousand), Ukrainians (28 thousand), Belorussians (16 thousand) and Finnish (11 thousand).

It is impossible to give exact numbers about migration statistics throughout the last years, because in 2000–2004 there was no obligation to register one's place of residence. Therefore the main interior and exterior migration events are not properly recorded and the migration statistics not reliable.

The distribution by Estonians, Russians as the second biggest national group and other nationals by ISCO-88 major or sub-major groups are available from Population Census 2000 only. If to look at the distribution of highly-skilled jobs in all jobs done by national groups, then Estonians have a share of 43%, whereas Russians 29% and others 31%. There are particularly more Estonians among corporate managers and financial, juridical, information etc professionals categorized under "24 other professionals" as well as associate professionals under "34 other associate professionals".



On the other hand from all the jobs that Estonians do the skilled consist 27%, whereas for Russians the share is 37% and for others 36%. These figures show very well, that there is a strong tendency of others than Estonians doing more skilled jobs. Non-Estonians are considerably more represented in craft and related trade jobs, especially what concerns metal, machinery and related trade jobs, also the share of non-Estonians is higher among machine operators and assemblers.

**Table 2. EMPLOYED POPULATION\*, 31 March 2000 by Sex, Occupation and Ethnic nationality (N=375033)**

ISCO-88 sub-major group	Estonian		Russian		Other ethnic nationalities		Ethnic nationality total	
	Male	Female	Male	Female	Male	Female	Male	Female
<b>1 LEGISLATORS, SENIOR OFFICIALS AND MANAGERS</b>	<b>33638</b>	<b>18773</b>	<b>7211</b>	<b>4021</b>	<b>2665</b>	<b>1077</b>	<b>43555</b>	<b>23891</b>
11 Legislators and senior officials	2035	1674	84	80	42	30	2161	1784
12 Corporate managers	21047	12289	4709	2661	1645	682	27431	15649
13 General managers	10554	4810	2417	1280	977	365	13959	6458
<b>2 PROFESSIONALS</b>	<b>16565</b>	<b>37041</b>	<b>3493</b>	<b>9538</b>	<b>1139</b>	<b>2253</b>	<b>21214</b>	<b>48882</b>
21 Physical, mathematical and engineering science professionals	5744	2474	1852	1298	418	245	8022	4021
22 Life science and health professionals	1550	5217	302	1115	151	300	2004	6638
23 Teaching professionals	3578	13435	586	3861	275	948	4443	18266
24 Other professionals	5554	15817	722	3239	288	755	6568	19829
<b>3 TECHNICIANS AND ASSOCIATE PROFESSIONALS</b>	<b>18041</b>	<b>35760</b>	<b>4204</b>	<b>11233</b>	<b>1309</b>	<b>2610</b>	<b>23577</b>	<b>49646</b>
31 Physical and engineering science associate professionals	5412	2749	2081	2085	594	407	8093	5245
32 Life science and health associate professionals	566	7750	79	3395	33	869	679	12023
33 Teaching associate professionals	484	5470	101	1670	36	366	621	7514
34 Other associate professionals	11517	19740	1923	4063	643	959	14098	24784
<b>Highly-skilled total</b>	<b>68244</b>	<b>91574</b>	<b>14908</b>	<b>24792</b>	<b>5113</b>	<b>5940</b>	<b>88346</b>	<b>122419</b>
<b>6 SKILLED AGRICULTURAL AND FISHERY WORKERS</b>	<b>8270</b>	<b>4768</b>	<b>591</b>	<b>331</b>	<b>223</b>	<b>164</b>	<b>9090</b>	<b>5266</b>
61 Market-oriented skilled agricultural and fishery workers	8270	4768	591	331	223	164	9090	5266
<b>7 CRAFT AND RELATED TRADES WORKERS</b>	<b>37944</b>	<b>10033</b>	<b>21831</b>	<b>8108</b>	<b>5473</b>	<b>1660</b>	<b>65313</b>	<b>19816</b>
71 Extraction and building trades workers	15405	622	6784	721	1843	197	24055	1540
72 Metal, machinery and related trades workers	17333	531	13407	779	3228	152	33999	1463
73 Precision, handicraft, printing and related trades workers	989	874	219	248	66	55	1278	1177
74 Other craft and related trades workers	4102	8003	1343	6350	319	1253	5771	15620

<b>8 PLANT AND MACHINE OPERATORS AND ASSEMBLERS</b>	<b>33461</b>	<b>6665</b>	<b>12903</b>	<b>6397</b>	<b>3868</b>	<b>1426</b>	<b>50279</b>	<b>14504</b>
81 Stationary-plant and related operators	4838	684	2036	1067	470	239	7348	1992
82 Machine operators and assemblers	4353	5574	2004	4745	444	1024	6809	11353
83 Drivers and mobile-plant operators	24244	402	8840	570	2946	162	36065	1138
<b>Skilled total</b>	<b>79675</b>	<b>21466</b>	<b>35325</b>	<b>14836</b>	<b>9564</b>	<b>3250</b>	<b>124682</b>	<b>39586</b>
<b>TOTAL</b>	<b>147919</b>	<b>113040</b>	<b>50233</b>	<b>39628</b>	<b>14677</b>	<b>9190</b>	<b>213028</b>	<b>162005</b>

Source: Statistics Estonia

\* Employed population - persons aged 15 and older and persons whose age is unknown. Data adjusted 28 August 2003. Major groups 4, 5 and 9 left out as do not qualify as highly-skilled or skilled.

The statistics about vacancies is available only for years 2004 and 2005. The following table presents also new jobs and the share of those to all jobs available yearly. Comparing the years 2004 and 2005 it is clearly visible; that in 2005 there are much more jobs available on the labour market, the growth among highly-skilled jobs is from 3.5 to 5 thousand and among skilled jobs from 16.7 to 23.6 thousand. In 2005 there were about 550 highly-skilled and 3.9 thousand skilled jobs more than in 2004.

When we look at the share of new jobs in all available jobs, in both years and throughout the majority of professions new jobs constitute over 50% of vacancies. That is a positive sign about Estonia's economical growth. Comparing the vacancies in 2004 and 2005, there is an important growth in almost all the professional groups. Exceptionally large growth among highly-skilled professional groups has happened among legislators and senior officers, very high also in the group of managers of small enterprises, life science and health professionals and physical and engineering science associate professionals.

Among skilled professionals the biggest growth is visible in the group of stationary plant and related operators; extraction and building trades workers; metal, machinery and related trades workers; and precision, handicraft, craft printing and related trades workers. Growing vacancies are strongly interrelated both with the age structure of generations as well as labour emigration. It is obvious that the population decrease both through demographic situation as well as labour emigration has resulted in serious labour shortage, especially what concerns specialists and skilled workers. This has been recognized as a main problem for the future labour policies to solve in Estonia.

Recent research of the Estonian Ministry of Economics and Communication "**Labour demand prognosis until 2012**" (Töajõuvajaduse prognoos aastani 2012) points out the estimated numbers of the labour demand in economic sectors until 2012. The unit of analysis in this prognosis is not ISCO-88 by its major and sub-major groups, but the field of activity (*Statistical Classification of Economic Activities in the European Community (NACE Rev. 1.1)*), therefore

again, concrete vacancies on the required basis cannot be provided. Also, the research is missing the focus of indicating directly in which sectors immigrants could be used and to what extent. However, some rough conclusions can be made. It has been estimated that there will be over 625 thousand people in the age of 15–64 active (employment rate 68.2%) in the labour market, that makes 26 thousand new working places for 2012, among those the biggest increase will take place among specialists (159→178 thousand, increase 19 thousand) and skilled workers (192→199 thousand, increase 7 thousand). Yearly it would mean about 3800 new working places. In addition, in next years in average 11 thousand employees will retire and therefore the yearly labour need will be about 14.5 thousand. At the same time, there will be 44 thousand workers less on the labour market in 2012 compared to today.

Many companies are in need of implementing new innovations that would increase the productivity, that would cause changes in the labour structure as well – more specialists and skilled workers are needed and less unskilled labour. Together with improving the productivity especially in production sector labour and increasing the employment rate among youth, women and elderly also the option of increasing immigration has been taken into consideration.

Among all the sectors the overwhelming supply of working places (27 thousand) will happen in production sector, where foreign specialists and skilled workers could be needed in the manufacture of basic metals and fabricated metal products; manufacture of machinery and equipment, and manufacture of transport equipment. Foreign labour could also be needed in Transport, storage and communication (bus-drivers e.g.), health and social work, and in construction sectors. However, these are not official prognoses but only indirect conclusions based on the paper.

**Table 3. Available jobs by highly-skilled and skilled professional groups, 2004 and 2005**

ISCO-88 (COM)		New jobs 2004	New jobs 2005	Available jobs 2004	Available jobs 2005	Growth in available jobs 2004-2005
Highly-skilled						
<b>1</b>	<b>LEGISLATORS, SENIOR OFFICIALS AND MANAGERS</b>	377	829	619	1473	138%
11	Legislators and senior officials	18	418	145	820	466%
12	Corporate managers	346	391	455	617	36%
13	Managers of small enterprises	13	20	19	36	89%
<b>2</b>	<b>PROFESSIONALS</b>	711	733	1106	1200	8%
21	Physical, mathematical and engineering science professionals	159	245	275	370	35%
22	Life science and health professionals	43	76	66	128	94%
23	Teaching professionals	120	202	263	389	48%
24	Other professionals	389	210	502	313	-38%
<b>3</b>	<b>TECHNICIANS AND ASSOCIATE PROFESSIONALS</b>	879	952	1739	2357	36%
31	Physical and engineering science associate professionals	159	194	243	437	80%
32	Life science and health associate professionals	76	117	149	237	59%
33	Teaching associate professionals	39	22	48	65	35%
34	Other associate professionals	605	619	1353	1616	19%
<b>TOTAL</b>		<b>1967</b>	<b>2514</b>	<b>3518</b>	<b>5028</b>	<b>43%</b>
Skilled workers						
<b>6</b>	<b>SKILLED AGRICULTURAL AND FISHERY WORKERS</b>	204	293	262	357	36%
61	Market-oriented skilled agricultural and fishery workers	204	287	262	351	34%
62	Subsistence agricultural and fishery workers	0	6	0	0	0%
<b>7</b>	<b>CRAFT AND RELATED TRADES WORKERS</b>	5006	8275	9093	14835	63%
71	Extraction and building trades workers	1790	3429	3300	5616	70%
72	Metal, machinery and related trades workers	1402	2317	2596	4336	67%
73	Precision, handicraft, craft printing and related trades workers	83	124	131	220	68%
74	Other craft and related trades workers	1731	2405	3066	4663	52%
<b>8</b>	<b>PLANT AND MACHINE OPERATORS AND ASSEMBLERS</b>	3933	4494	7366	8460	15%
81	Stationary plant and related operators	361	697	548	1334	143%
82	Machine operators and assemblers	2414	2375	4569	4476	-2%
83	Drivers and mobile plant operators	1158	1422	2249	2650	18%
<b>TOTAL</b>		<b>9143</b>	<b>13062</b>	<b>16721</b>	<b>23646</b>	<b>41%</b>
<b>TOTAL highly skilled + skilled</b>		<b>11110</b>	<b>15576</b>	<b>20239</b>	<b>28674</b>	<b>42%</b>

Source: Estonian Labour Market Board

**Table 4. Number of applications for working received by citizenship**

Citizenship		2002	2003	2004	2005	2006 until July	TOTAL
<b>EU-15</b>	Finland	193	191	256	252	106	<b>998</b>
	Germany	40	44	78	84	28	<b>274</b>
	Sweden	34	23	34	52	47	<b>190</b>
	United Kingdom	41	33	43	43	15	<b>175</b>
	France	18	14	18	27	18	<b>95</b>
	Denmark	14	26	17	22	8	<b>87</b>
	Italy	25	16	11	14	13	<b>79</b>
	Netherlands	9	10	32	10	4	<b>65</b>
	Spain	4	7	5	6	6	<b>28</b>
	Ireland	5	5	4	4		<b>18</b>
	Belgium	2	3	6	6		<b>17</b>
	Austria	3	2	4	4	1	<b>14</b>
	Portugal	1		1	5	1	<b>8</b>
	Greece				1	2	<b>3</b>
	Luxemburg	1					<b>1</b>
	<b>Total</b>	<b>390</b>	<b>374</b>	<b>509</b>	<b>530</b>	<b>249</b>	<b>2052</b>
<b>EU-10</b>	Poland	98	124	16	21	29	<b>288</b>
	Latvia	6	12	64	132	40	<b>254</b>
	Lithuania	9	16	41	72	42	<b>180</b>
	Czech Republic	33	20	4	2	1	<b>60</b>
	Hungary	1	1	6	5		<b>13</b>
	Slovenia	1			2		<b>3</b>
	Slovakia				1	2	<b>3</b>
	<b>Total</b>	<b>148</b>	<b>173</b>	<b>131</b>	<b>235</b>	<b>114</b>	<b>801</b>
<b>Third countries</b>	Ukraine	63	92	75	202	85	<b>517</b>
	Russia	34	129	66	57	53	<b>339</b>
	USA	35	69	73	65	39	<b>281</b>
	Norway	18	12	20	12	9	<b>71</b>
	India	8	15	8	19	13	<b>63</b>
	Canada	10	5	3	16	6	<b>40</b>
	China	6	8	7	4	8	<b>33</b>
	Australia	2	5	5	5	2	<b>19</b>
	Japan	1	3	6	5	3	<b>18</b>
	Belorussia	3	3	6	3	2	<b>17</b>
	Switzerland	2	2	2	7	4	<b>17</b>
	Israel	5	3	5		2	<b>15</b>
	Romania	3	1	5	3		<b>12</b>
	Georgia	2	1		7	1	<b>11</b>
	Nepal	2	2	3	2	2	<b>11</b>
	Other	13	14	23	24	13	<b>88</b>
	<b>Total</b>	<b>207</b>	<b>364</b>	<b>307</b>	<b>431</b>	<b>242</b>	<b>1552</b>
<b>TOTAL</b>		<b>745</b>	<b>911</b>	<b>947</b>	<b>1196</b>	<b>605</b>	<b>4404</b>

Source: Estonian Citizenship and Migration Board

Estonia is also able to provide some statistics about permits for work and business applied. Work applications can be compared throughout years 2002–2005 and 2006 until July. In EU-15 Finnish citizens have made the biggest number of applications throughout the years followed by Germans, Swedish and British. Since Estonia joined the EU, the number of applications from EU-citizens in general has been growing. Among the EU-10 countries Polish, Latvian and Lithuanian citizens have applied for the biggest number of work permits. The most significant interest from the third countries towards working in Estonia has been showed by Ukrainians, Russians and the citizens of USA followed by Norwegians, Indians and Canadians. What concerns Ukrainians then the interest has grown considerably since Estonia joined EU. From other third country citizens there have been less than 10 applications yearly. Additionally the data for applications to create business in Estonia is available in 2003-2005 and 2006 until July. Following table presents the figures by EU-15, EU-10 and Third country citizens.

**Table 5. Number of applications for business received by citizenship and year**

Citizenship		2003	2004	2005	2006 until July	TOTAL
EU-15	Finland	2	101	141	65	309
	Sweden		15	18	10	43
	United Kingdom	2	9	20	10	41
	Germany		6	16	4	26
	Italy		6	11	7	24
	Denmark		4	3	3	10
	France		3	2	3	8
	Ireland		2	2	1	5
	Netherlands		1	2	2	5
	Belgium		1	3		4
	Greece			3		3
	Spain		1	1		2
	Austria			1		1
	Portugal			1		1
	<b>Total</b>	<b>4</b>	<b>151</b>	<b>222</b>	<b>105</b>	<b>482</b>
EU-10	Latvia		4	6	1	11
	Lithuania		4	2	2	8
	Hungary		1	2		3
	Poland		1	1	1	3
		<b>Total</b>	<b>0</b>	<b>10</b>	<b>11</b>	<b>4</b>
Third countries	Norway		6	10	5	21
	Russia	2	3	4	3	12
	Switzerland		1	2		3
	USA		1		2	3
	Australia		1			1
	Canada			1		1

	India		1			1
	Kyrgyz Republic			1		1
	Pakistan			1		1
	Sri Lanka				1	1
	USA			1		1
	<b>Total</b>	<b>2</b>	<b>13</b>	<b>20</b>	<b>11</b>	<b>46</b>
<b>TOTAL</b>		<b>6</b>	<b>174</b>	<b>253</b>	<b>120</b>	<b>553</b>

Source: Estonian Citizenship and Migration Board

Finally we have got also the figures of refusals in 2000–2005. It has to be considered that there have been very few refusals; in principle almost every application for working in Estonia has been accepted. Therefore the applications made by citizenship can be roughly calculated as the foreigners working or doing business in Estonia.

**Table 6. Refusals for working by citizenship and year**

Citizenship		2003	2004	2005	TOTAL
<b>EU-15</b>	France		1		<b>1</b>
<b>EU-10</b>	Czech Republic	1			<b>1</b>
<b>Third countries</b>	Russia	1	2	1	<b>4</b>
	Belorussia		1		<b>1</b>
	Israel		1		<b>1</b>
	Ukraine		1		<b>1</b>
	USA		1		<b>1</b>
	India			1	<b>1</b>
	Nepal			1	<b>1</b>
<b>TOTAL</b>		<b>2</b>	<b>7</b>	<b>3</b>	<b>12</b>

Source: Estonian Citizenship and Migration Board

Unfortunately, the figures by ISCO-88 major and sub-groups as well as by sex are not available.

Talking about the **regional distribution of third country workers in Estonia**, it is very important to notice that the regional differences are tremendous. Eventhough no data by third country labour force by region is not available, some conclusions can be drawn by the amount of foreign nationals in different regions. The proportion of overwhelmingly soviet-origin third country nationals is as big as 80% in North-East Estonia (in Narva, the border city with Russia, even 96%), and 41% also in the capital region (in Tallinn 45.5%). At the same time in the West-Estonia there are less than 2% of foreign nationals, and also in South-Estonia the share of non-Estonians is very small – around 5–6%. (Population Statistics 2005)

## 9. ANY OTHER RELEVANT ASPECTS

We would like to give an **overview about Estonian population and its documentation. Estonia has a particular situation in the EU since 1/3 of the population has foreign origin.** The major part of them (205 thousand) migrated to Estonia from the different places of Soviet Union during 1945–1988. Since Estonia re-established its independence, the immigration numbers have dropped down considerably.

The issue of documents to the Estonian population started immediately after the Republic of Estonia regained its independence. Its residents had to be provided with identity documents of newly independent state. Since the determination of citizenry is based on the principle of legal continuity the documentation of the Estonian population was started by the issue of documents to its citizens. The first Estonian citizen's passports were issued in July 1992 and, within a period of three years, almost all citizens who were of the age for holding a passport were provided with passports of the Republic of Estonia.

The situation of aliens was more complicated. In the beginning of the 1990s almost one third of the Estonian population consisted of aliens with undetermined citizenship i.e. persons who had, during the past 50 years, arrived from the territory of the former Soviet Union and settled in Estonia. The issue of documents to aliens started in 1990 with entry into force of the Immigration Act. This Act provided for the issue of residence permits to aliens who wished to settle in Estonia. Since 1993 documentation of aliens with residence permits has been regulated by the Aliens Act and since 2000 the documentation of aliens with identity documents and travel documents has been regulated by the Identity Documents Act. During the documentation of aliens carried out from 1993 to 1996 a certain number of aliens received Estonian citizenship, others attained the citizenship of other countries and the all aliens living in Estonia were provided with residence permits, most of which were temporary. As a result the share of persons with indeterminate citizenship in Estonia decreased from 32% to 13%.

In 1996 the issue of alien's passports to persons with indeterminate citizenship was started by the Estonian state providing valid travel documents which served as their identification and allowed them to travel. During 1997–1998 most of the aliens with indeterminate citizenship were provided with aliens passports. 1998–2000 was the period when aliens who had been initially provided with temporary residence permits were granted permanent residence permits. The next wave of issuing documents to aliens started in the second half of 2004 when most of the alien's passports and temporary residence permits became invalid. Alien's passports were provided with a new and more secure design at the beginning of 2004. In 2005 the number of applications for alien's passport increased 2.6 times compared to relevant figure in 2004. The number of applications for alien's identity cards increased 13%.



Aliens are documented by the regional departments and bureaux of the CMB, the Postal Centre, the Aliens' Documentation Department and the Document Printing Department. Regional units and the Postal Centre receive applications and make decisions concerning the issue of documents which are applied for a second or third time; the Alien's Documentation department examines applications for residence and work permits and deals with more complex cases; and the Documents Printing Department prints alien's travel documents and residential permit stickers. The CMB issues alien's identity cards, alien's passports, temporary travel documents and certificates of record of service on Estonian ships. The documentation is going well but the situation with integration is *vice versa*.

Very shortly **few aspects about Estonian citizenship**: based on the principle of blood relationship (*ius sanguinis*); no dual citizenship is allowed; can be acquired by birth, upon adoption by Estonian citizen or by naturalisation. In 2000 the Citizenship Act was amended by adding a provision which simplifies the acquisition of Estonian citizenship by minors less than 15 years of age who are born in Estonia after 26 February 1992 and who has never been a citizen of any other country, etc.

Most of the persons who have been granted Estonian citizenship by naturalisation have undetermined citizenship. During recent years the number of applications for Estonian citizenship has increased due to higher interest in Estonian citizenship among the aliens after Estonian accession to the EU. Increase in the number of applications also relates to the simplification of the naturalisation procedure in 2004. The procedure period was shortened from one year to six months.

During 2005 the number of persons with undetermined citizenship holding a valid residence permit decreased by 14.536 persons. A person who wishes to acquire Estonian citizenship shall first perform the Estonian language examination and the examination on the knowledge of the Constitution of the Republic of Estonia and the Citizenship Act. The examinations are organised by the National Examination and Qualification Centre.

In 2005 the CMB registered 6.752 applications for citizenship and the Government of the Republic granted Estonian citizenship to 7.072 persons.

During the period from 1992 to 2005 the CMB registered and processed 146.084 applications for acquisition of Estonian citizenship. At the same time Estonian citizenship has been granted 138.246 persons by the decision of the Government of the Republic. 2.679 persons have been released from Estonian citizenship and the Government of Republic has refused to grant the citizenship to 605 persons.

**Very strongly interrelated topic with the immigration is the emigration from the country.** As a matter of fact Estonia has lately experienced more emigration

than immigration and in the nearest future emigration still continues to be a significant influencer for Estonia's population and local labour supply.

In order to adequately evaluate the situation with third country immigrants and the need and capacity that Estonia has to invite them to work in Estonia, we definitely need to have better overview about the migration flows within Estonia.

Unfortunately there is no reliable data either about emigration figures for the last 6 years of time at least. We only know that the estimated number of Estonian labour in Finland is at least 30 thousand, and the other bigger emigration destinations lately have been Ireland, England, Sweden and Norway. Once again, there are no certain ways how to keep track of the people who decide to emigrate. Basically the emigration data can be mainly collected from the receiver country in case of long-term residence permits and according to issued E-101 certificates, because similarly to Estonia also other countries do not register short-term stays. On the other hand, as in many other EU countries, the citizens of Estonia do not have any motivation to record their leaving of country.

Since the beginning of 1990s the main destination of labour emigration has been Finland. Immigration numbers increased considerably from 1<sup>st</sup> of May 2004 after joining EU. The population statistics in Finland does not show the exact numbers of Estonian labour immigrants. There are several shortcomings in statistics, because the **Free Labour and Service Movement Act** allows in Finnish case that the short-term working and service movements do not have to be registered in population statistics (The Government's report, 2006). In 2005 there were 15 459 Estonian citizens permanently living in Finland (Statistics Finland), 3795 certificates of a posted employees were issued (The Finnish Centre of Pensions) and any official data of the short-term and seasonal workers is not available. Some info of Estonian publicity refers to some 30 thousand Estonians working currently in Finland. The major loss of highly-skilled workers concerns doctors and other medical personnel, music teachers and orchestra and choir conductors; of skilled workers building specialists, bus drivers.

The new opportunities are offered by the international agreements. In Estonia there are two agreements signed at the state level which deal with the tourism with the right for work (Working holiday scheme). The agreement with Australia was signed in the year 2005 and with the New Zealand - in the autumn of 2006. The above mentioned agreements allow young people aged 18 to 30 travel and work in the other state on simplified conditions. According to the agreements, persons of the above mentioned age can receive a visa with the period of validity of up to 1 year, which is first of all meant for language study and acquaintance with the country, although allows short-term employment (Ministry of Foreign Affairs).

## **10. CONCLUSIONS**

- Currently available migration data in Estonia does not give satisfactory information about the amount and details of third country workforce in Estonia (their place of residence in Estonia, education, professional skills etc) neither does it help much in making conclusions how should we proceed with third country immigrants.
- Population registering system in general, i.e. registering third country nationals, has to be designed and implemented. Population Censuses after every 11 years are clearly not enough for providing migration data about the Estonian population for constructive labour force planning.
- Co-operation between different agencies dealing with immigrants has to be improved and data exchanges promoted in order to create common databases about immigration as well as migration data broadly.
- The controlling mechanisms over meeting the working rights and obligations of the foreign as well as local labour force has to be improved in order to protect Estonian labour market as well as keep up the image of Estonia as country with pleasant working environment .
- As the control over the employer and employee is very weak, it is not possible to assure that the working rights of third country workforce are followed and other requirements met (language skills obtained e.g.). Far from that Estonia would be assure to follow up how do foreigners cope in Estonia and how do they integrate.
- Experts mainly tend to be in the position that Estonian foreign labour force policy has to be strict. It is explained with the difficulties that Estonia would face when integrating new immigrants into our society. As Estonia is still having major problems with the integration of Soviet period migrants, it is a widespread opinion that we first have to solve the existing integration problems and only after that we can be more open for additional immigration. Estonia simply does not have means to guarantee social security for new immigrants.
- There are also some expert opinions that third country labour immigration would be economically efficient only in short-term. It would help to solve the labour force shortage that happens in 2010–2020 due to the whole generation of early Soviet time immigrants who will retire soon. In longer perspective the bigger numbers of new immigrants would cost more then benefit for the society.
- Estonia needs more cooperation between different parties who coordinate the immigration in the country. Anybody, no institution, has clear responsibility of labour-migration policies. Moreover, there is no ministry who is entirely responsible of labour policies. However, it is clear that the labour is a central topic Estonia has to deal with to have a future as a country. Much and consistent

attention has to be paid to labour research, strategies and policies. Therefore we propose the idea of a central institution that would deal with labour issues, including immigration. Estonia is in need of the Ministry of Labour.

– How can be improved our statistical databases regarding migration? First of all, even if registering ones place of residence is stipulated by law, it does not guarantee, that it takes place in reality. People have to have a real motivation for registering. In other countries like Sweden, Finland or the Netherlands for example registering is motivated by the functioning of interrelated databases. That means, if a person changes a place of residence none of the public services can be received if he/she did not notice about a new place of residence. At the same time, if an address at least in one of the registers (e.g. national insurance office) has been changed, all interrelated registers will receive the updated data. Similar kind of motivated system should be implemented also in Estonia in order to keep track on population, either native or foreign.

– Some kind of preparations in establishing population databases have been going on, but until now there are no real implementations. Currently, Statistics Estonia is trying to generate the migration database for missing years 2000–2004 by the help of other registers (tax office etc). However, it's clear that the data cannot be reconstructed entirely. The next Population Census will take place in 2011. After the 2000 it will be the first time when more thorough data about the population can be collected.

– Definitions, legal acts and migration statistics need revising and modernisation.

– It would be highly desirable to develop and adopt a National Directive on Highly-Skilled Workers from third countries, giving major definitions, policies and procedures in the field.

– It is very important to use our own human resources: the biggest and the most difficult task for the public sector are to avoid the doubling and waste of monetary resources.

– The state budget should provide more funding for the vocational training and technical higher education, so that the number of local skilled workers in Estonia could grow in the future.

– It is necessary to establish a basis for common strategies, programs, databases and measurement instruments for facing and managing this problem.

## **ANNEXES**

### **Annex A: Questionnaire on the conditions of admission for more than three months of highly skilled third-country nationals in Member States of the European Union for paid employment**

#### **ANSWERS FROM ESTONIA TO QUESTIONNAIRE MIGRAPOL 120**

1. *Do specific rules exist in your national legislation to regulate/facilitate the admission of third country highly skilled workers (other than researchers in the sense of Council directive 2005/71/EC)?*

Questionnaire on the conditions of admission for more than three months of highly skilled third-country nationals in Member States of the European Union for paid employment.

There are no facilitations for highly skilled third country nationals in Estonian legislation, but there are some categories of short-term workers who are allowed to work in Estonia without work permit (on the basis of their visa) and who qualify as highly skilled workers (e.g. teachers, researches, experts, councillors, consultants etc).

2. *If answered "yes" to question 1, please specify:*

- a. *The title and the legal nature (legislative, regulatory, administrative circular, simple practice) of the rule that allows admission as well as the reasons for which it was adopted (please join to your answer a copy of the text in the language of your State and, if possible, in English). If more than one procedure exists (for example, addressing different specific sectors of the economy and/or applying to specific local realities), please provide information on all and on the reasons why there are such differences (please, do so also in the replies to the other points of question 2).*

It is stated in the Aliens Act § 13<sup>2</sup> par 1.

#### **Short term employment**

- Aliens who arrive in Estonia either on the basis of a visa or on a visa-free basis (unless any international agreement stipulates otherwise) may apply for registration for short-term employment in Estonia;
- Short-term employment cannot exceed a period of 6 months a year. An alien who stays in Estonia on the basis of a residence permit cannot register for short-term employment in Estonia. In this case an alien has to apply for a work permit or a residence permit for employment.
- Short-term employment in Estonia must be registered before the application for a long-term visa. An application for registration for short-term employment may be submitted in the following cases:
  - for working as a teacher or lecturer in an educational institution, which complies with requirements established by Estonian law, on the basis of an invitation from this institution;

- for working as a creative person or scientist if the alien has appropriate professional training or experience;
- for making direct foreign investments; for establishing the branch of a foreign company in Estonia or exercising the right of representation or performing managerial functions by relocation to a company which is registered in Estonia but is part of an international concern;
- for working as a sportsman, coach, referee or sports official for professional activities on the basis of an invitation from a respective sports federation;
- for working as an expert, adviser or consultant providing that the alien has the required professional training;
- for working as an installer of equipment or a skilled worker providing that the alien has the required professional training and that the employment of an alien in Estonia is necessary and in the interests of the state according to a decision of the Minister of Internal Affairs made on the basis of a request from a member of the Government;
- for acting within the framework of an international co-operation agreement with state or local government authority participation;
- for working as a seasonal worker processing agricultural products;
- for working as an *au pair* or domestic help;
- for working for the purpose of professional training as a part of practical training;
- in order to serve in the diplomatic representation of a foreign country with the permission of the Ministry of Foreign Affairs;
- on the basis of an international agreement.

### **Estonian version is:**

#### **§13<sup>2</sup>. Lühiajaline Eestis töötamine**

(1) Ilma tööloata ja elamisloata töötamiseks võib Eestis töötada välismaalane, kellel on seaduslik alus Eestis viibimiseks, välja arvatud elamisluba, ja kelle töötamine on siseministri poolt määrusega sätestatud korras enne tööle asumist registreeritud Kodakondsus- ja Migratsiooniametis ning see ei ületa kuut kuud aasta jooksul, järgmistel juhtudel:

1) õpetaja või õppejõuna töötamiseks Eestis õigusaktidega kehtestatud nõuetele vastavas õppeasutuses selle õppeasutuse kutsel;

2) loominguliseks või teaduslikuks tegevuseks, kui välismaalasel on selleks erialane ettevalmistus või kogemus;

3) [välja jäetud – [RT I 2004, 28, 189](#) – jõust. 1.05.2004];

- 4) välismaise otseinvesteeringu teostamiseks, Eestis välismaa äriühingu filiaali asutamiseks või ümberpaiknemise korras esindusõiguse või juhtimisfunktsiooni teostamiseks Eestis registreeritud äriühingus, mis kuulub rahvusvahelisse kontserni;
- 5) sportlane, treener, spordikohtunik või sporditöötaja erialaseks tegevuseks vastava spordialaliidu kutsel;
- 6) ekspert, nõustaja, konsultant, kui välismaalasel on selleks erialane ettevalmistus;
- 6<sup>1</sup>) seadmete paigaldaja või oskustöoline, kui välismaalasel on selleks erialane ettevalmistus ja välismaalase Eestis töötamine on vajalik, lähtudes riiklikest huvidest, Vabariigi Valitsuse liikme ettepanekul siseministri otsuse alusel;
- 7) tegevuseks riigi- või kohaliku omavalitsuse asutuse osalusega rahvusvahelise koostööprogrammi raames;
- 8) töötamiseks põllumajandussaaduste töötlemisega seotud hooajatöödel;
- 9) töötamiseks lapsehoidja või koduabilisena;
- 10) töötamiseks kutseõppe eesmärgil praktika korras;
- 11) välisriigi diplomaatilise esinduse teenindamiseks Välisministeeriumi loal.

*b. How is the category of highly skilled defined and which are the criteria (competences, minimum salary, etc) to fulfil in order to benefit from the special scheme (please reproduce in the language of your State – and, if possible, in English – the terms of the definition of the highly skilled worker)? Is such scheme(s) applicable also to other categories (for example, qualified workers, sportsmen, artists, etc)?*

The category of highly skilled is not defined in Estonian legislation. In the law there are listed certain professions and some of those can be considered as highly skilled workers. Basic criteria are that a person has to have required qualification and they can work in Estonia only for 6 months.

Yes, the same scheme is applicable to other categories as well (sportsmen, artists, skilled workers etc).

*c. Do you apply quotas and/or the principle of the Community preference (economic needs test) as a prerequisite for admitting such workers? In particular, must the admission be linked to a specific job or job-seekers permits can be given to highly skilled workers, for example with a view of filling in recognised gaps in certain jobs/sectors of the labour market?*

Since we don't issue residence permits for work for short-term workers, we also don't apply an immigration quota for them. Admission is linked to a specific job.

- d. *Describe the procedure for issuing the visa or residence/work permit(s) and the individual advantages that it gives to the highly skilled worker in comparison with the common procedures. Specify in your answer:*
- *if in-country requests (introduced into the host country on the condition of being there legally) are accepted;*
  - *the authority competent for the issuance of the visa or residence permits: does this involve the normally competent authorities as regards immigration or a specialised service?*
  - *if the employer plays a role in this procedure (for example by submitting the admission request on behalf of the benefiting highly skilled worker, by attesting the competences and skills of the person concerned, by standing as guarantor of the fact that the person has sufficient resources, etc.).*
  - *the conditions of admission (for example of resources) that the researcher has to fulfil and the documents that he/she has to produce in support of the request (copy of the diplomas, work contract, etc.) and if those have to be translated into an official language of the host country.*
  - *the validity in time and the possibilities of renewal of the visa or residence/work permit(s) granted to the highly skilled worker. Please specify in particular if there are maximum limits (temporary permit) or if the permit is from the beginning/can become permanent (in the latter case, after how long and under which conditions).*
  - *if there are limitations to the worker's internal mobility (to a sector, an occupation, a region, etc, and if yes, for how long).*
  - *if, in case of loss of the job and/or end of the work contract, the highly skilled worker is granted a certain period of time (for example, 3 months) to seek another job in the Member State of residence.*

See point 2a.

- e. *Specify if highly skilled workers have to obtain a work permit in addition to the visa or residence permit, or if the title enabling these workers to reside and carry out a paid activity is a single one (combined work/residence permit, residence permit allowing access to the labour market, etc).*

If they belong to certain categories of workers (e.g. teachers or researchers) and they want to work in Estonia for max 6 months, then they don't need a work permit or living permit.

- f. *Indicate if the highly skilled worker admitted within the framework of this specific procedure benefits from the right to family reunification. Please*



*clarify the points on which he/she has, if relevant, a more favourable arrangement than the common right and if the family members are admitted to work.*

No, they don't benefit because according to the directive a sponsor has to live in a MS at least 2 years on the basis of temporary living permit. Short-term working cannot exceed 6 months in a year.

*g. Is individual publicity given to make better known the measures specific to the highly skilled workers (specify in your answer the means used, such as for example an internet site, the public targets, as well as the languages in which information is available).*

There are general information is in the departments of Citizenship and Migration Board (CMB). There is also information about the short-term work in Estonia on the web site of CMB.

3. *If answered "no" to question 1, please specify the rules under which a third-country highly skilled worker can be admitted and the conditions of residence.*

General rules (also for highly skilled workers if they want to work in Estonia for more than 6 months) in order to obtain a residence permit for employment are following:

- An applicant should submit his/her application for a residence permit at a representation of the Republic of Estonia. The following may apply for a temporary residence permit at the Citizenship and Migration Board:
  - Estonian, his/her wife/husband and underage child;
  - Estonian citizen's wife/husband and underage child;
  - for a child under twelve months, descent of a foreigner living in Estonia under residence permit;
  - foreigner staying in Estonia during the activities of international cooperation programme with participation of a governmental- or local government agency;
  - foreigner staying in Estonia under fixed-term residence permit and applying for a new fixed-term residence permit;
  - foreigner having received a permit for it from National Citizenship and Immigration Board in exceptional circumstances of his/her inability to apply for residence permit to an Estonian foreign mission due to justified reason;
  - foreigner having issued a permit for it by the Minister of interior on the motivated proposal of the member of the Government of the Republic with justified reason of his/her arrival in Estonia being of national interest;
  - foreigner, a citizen of the country having a visa freedom pact with Estonia or in whose case Estonia has unilaterally waived visa

- requirement, and wife/husband and underage child of the named foreigner;
  - citizen of USA or Japan and his/her wife/husband and underage child;
  - foreigner, having taken up residence in Estonia before July 1, 1990 and not left to reside in any other country after the named date and who has not been refused a residence permit or prolongation of such or whose residence permit was not declared invalid.
- Estonia has not defined the category of highly skilled workers. As a general rule an alien can be granted a residence permit for employment if an open competition has been carried out to staff the post and if, within two months, it has not been possible to recruit anybody through the state employment mediation service. The Labour Market Board has to give its consent before an alien can be employed.
  - Having said that, there are categories of aliens who do not need the consent of the Labour Market Board and an open competition for filling a vacant position like:
    - clergymen, nuns and monks invited by religious associations in concordance with the Ministry of Internal Affairs;
    - journalists accredited by the Ministry of Foreign Affairs;
    - persons who have the right, proceeding from international law, to work in Estonia without a work permit;
    - teachers and academic staff to work in an educational institution which comply with the requirements established by the relevant national legislation;
    - for working as a creative person or scientist if the alien has appropriate professional training or experience;
    - for making direct foreign investments; for establishing the branch of a foreign company in Estonia or exercising the right of representation or performing managerial functions by relocation to a company which is registered in Estonia but is part of an international concern;
    - sportsmen, coaches, referees or sports officials for professional activities on the basis of an invitation from a respective sports federation;
    - for working as an expert, adviser or consultant providing that the alien has the required professional training;
    - for working as an installer of equipment or a skilled worker providing that the alien has the required professional training and that the employment of an alien in Estonia is necessary and in the interests of the state according to a decision of the Minister of Internal Affairs made on the basis of a request from a member of the Government

- aliens who have arrived in Estonia for the implementation of an international co-operation programme which is carried out with the participation of a state or local government authority;
  - aliens who come to Estonia to serve in the diplomatic representation of a foreign country;
  - a posted worker within the purpose of the Working Conditions of Workers who are Posted in Estonia Act.
- A residence permit for employment grants an alien the right to stay in Estonia for the purpose of employment according to the conditions determined by the residence permit.
  - A residence permit is issued only if the wages of an alien ensure his/her subsistence in Estonia and if the alien has appropriate professional training or experience. A residence permit for employment is issued for a period of guaranteed employment in Estonia by an employer with a period of validity of up to two years and it can be extended for up to five years at a time.
  - The annual immigration quota is the quota for aliens immigrating to Estonia which shall not exceed 0.05 % of the permanent population of Estonia annually. The immigration quota does not apply to the following:
    - aliens who are ethnic Estonians;
    - citizens of the European Union, the United States of America, Norway, Iceland, Switzerland and Japan.

The Minister of Internal Affairs may, on a reasoned proposal of the concerned minister, exempt specific persons from the immigration quota if their arrival in Estonia is necessary in the national interests for economic, educational, scientific or cultural development.

*4. Do you have statistical data regarding the number of visas or residence/work permits granted to third country highly skilled workers?*

Statistical data regarding residence permits for employment

Temporary residence permits issued for aliens who do not need the consent of the Labour Market Board and an open competition for filling a vacant position in 2005:

- Clergymen, nuns and monks invited by religious associations in concordance with the Ministry of Internal Affairs – **27**
- Teachers and academic staff to work in an educational institution which comply with the requirements established by the relevant national legislation – **22**
- for working as a creative person or scientist if the alien has appropriate professional training or experience – **5**
- for making direct foreign investments; for establishing the branch of a foreign company in Estonia or exercising the right of representation or performing managerial functions by relocation to a company which is registered in Estonia but is part of an international concern – **49**

- Sportsmen, coaches, referees or sports officials for professional activities on the basis of an invitation from a respective sports federation – **6**
- for working as an expert, adviser or consultant providing that the alien has the required professional training – **25**
- for working as an installer of equipment or a skilled worker providing that the alien has the required professional training and that the employment of an alien in Estonia is necessary and in the interests of the state according to a decision of the Minister of Internal Affairs made on the basis of a request from a member of the Government – **27**

Temporary residence permits prolonged for aliens who do not need the consent of the Labour Market Board and an open competition for filling a vacant position in 2005:

- Clergymen, nuns and monks invited by religious associations in concordance with the Ministry of Internal Affairs – **6**
- Journalists accredited by the Ministry of Foreign Affairs – **1**
- Teachers and academic staff to work in an educational institution which comply with the requirements established by the relevant national legislation – **15**
- For working as a creative person or scientist if the alien has appropriate professional training or experience – **6**
- For making direct foreign investments; for establishing the branch of a foreign company in Estonia or exercising the right of representation or performing managerial functions by relocation to a company which is registered in Estonia but is part of an international concern – **6**
- Sportsmen, coaches, referees or sports officials for professional activities on the basis of an invitation from a respective sports federation – **1**
- For working as an expert, adviser or consultant providing that the alien has the required professional training – **3**

5. *Do you plan to revise in the short term the national legislation to modify/introduce special procedures for the admission of highly skilled workers? If yes, could you provide the main ideas – and if possible, the details – of the draft legislation?*

There are plans to start more thorough discussion on the need of labour migrants and changes in laws, since also the EU is planning to regulate the economic migration. Still, we haven't planned any concrete changes in Estonian legislation yet. It needs a political decision and discussions with interest groups before.

6. *Do you have any scheme/facilitated procedure aimed at encouraging circular migration<sup>1</sup> of highly skilled third-country workers (for example, preference to workers having already worked in the Country for a certain period, facilitated procedures for re-entry, etc)? Please explain.*

<sup>1</sup> For the definition of circular migration in this context, please see *the Green Paper on an EU approach to managing economic migration* (COM (2004)811) and the *Policy Plan on Legal Migration*.

There is a facilitated procedure if a person has already a living permit for employment and needs to prolong it. A living permit for employment is prolonged if a person still fulfils the criteria which are required in order to get a living permit for employment in Estonia.

*7. Do you enact/plan to enact any ban/restriction/limitation to the recruitment in certain sensitive sectors of highly skilled/qualified workers coming from third countries subject to important brain drain (for example, health workers coming from certain parts of Africa)?*

Estimation whether third-country nationals could work in Estonia without harming the labour market is made by the Labour Market Board. Labour Market Board gives permission to work in Estonia if a person has required qualification, education, health, working experience, necessary working skills and knowledge, it is reasoned to give a person a residence permit for employment and there aren't any grounds to refuse to issue a permit.

*8. Do specific rules or procedures exist to facilitate the mobility inside the EU of highly skilled workers who have been admitted by a first Member State?*

There aren't any specific rules to facilitate the mobility inside the EU of highly skilled workers.

*9. Would you like to highlight certain best practices and specifically positive (or negative) lessons learned with regard to the admission of highly skilled workers?*

## **Annex 1: Institutions and organisations involved in managing migration with regard to third-country highly-skilled workers**

**The Ministry of Foreign Affairs** is responsible for all visa questions and regulations, travel document requirements for visitors, etc.

**Estonian Labour Market Board (LMB) is the government agency acting within the administrative area of the Ministry of Social Affairs.** LMB reviews and approves work permits. The governing labour market institution in Estonia is **the Ministry of Social Affairs**. The main functions of the Ministry of Social Affairs include planning social policy and solving social problems in the following principal spheres:

- employment of the population and income policy;
- protection of people's health and medical care;
- social security and social insurance.

Within the Ministry, the Deputy Secretary General in the field of Labour Policy is responsible for labour market issues, and the Labour Market Department, Working Environment Department and Labour Relations Department are in charge of working out the policy in this field.

The Estonian Labour Market Board was established in April 1991. The Labour Market Board is an operational body whose main functions are:

- to administer labour market services, bringing together employees and employers, e.g. collecting information on vacancies; employment mediation; providing information on opportunities for training activities; providing direct employment training, training stipends, subsidies and community placements;
- to organise unemployment registration, regulate the payment of benefits to the unemployed and supervise the entire process.

Starting from year 2004, the Estonian Labour Market Board will be one of the implementing agencies of the European Social Fund. It will have the responsibility for two measures – the implementation of active labour market measures, and social inclusion.

The Estonian Labour Market Board has a network of local state employment offices. Each of the 15 counties plus the capital city Tallinn has at least one employment office. State employment offices implement the governmental labour policy, register unemployed persons, provide employment services and pay state unemployment benefits in their respective region.

**The Citizenship and Migration Board (CMB) is the government agency acting within the administrative area of the Ministry of Internal Affairs.**

**The main tasks of CMB include:**

- the determination of the people living in Estonia either as Estonian citizens or aliens and the issue of identity documents to residents of Estonia;
- receipt and processing of applications for acquiring and restoring Estonian citizenship, as well as for exempting from Estonian citizenship, and preparing the respective materials for the Government of the Republic to make decisions on these applications;
- receipt and processing of applications for residence and work permits of third country nationals who wish to settle or who are living in Estonia, and making decisions on whether to grant or refuse to grant residence and work permits;
- documentation of European Union citizens and their family members and other activities related to organizing the matters related to free movement of persons and of workers;
- confirming visa invitations and extending the allowed period of stay in Estonia;
- processing of misdemeanours committed by the aliens illegally staying or working in Estonia, issuing of precepts to leave Estonia or to legalize one's stay in Estonia;
- organizing the return of aliens staying in Estonia illegally and detaining the persons to be expelled in the Repatriation Centre;
- making decisions on the requests of foreign countries for the readmission of Estonian citizens and aliens whose habitual residence is in Estonia;
- processing of asylum applications and making decisions on whether to grant asylum or refuse to grant it.

The CMB issues the following identity documents:

- identity cards (so-called ID-cards);
- Estonian citizen's passports;
- alien's passports;
- temporary travel documents;
- seafarer's discharge books;
- certificates of record of service on ships;
- Refugee's travel documents.

On the basis of data collected during documentation the CMB maintains the following databases:

- State Register of Residence and Work Permits;
- Visa Register;
- State Register of Prohibitions on Entry;
- State Register of Refugees;
- Database of aliens staying in Estonia illegally;

- Database of registration of short-term employment of an alien in Estonia;
- Database of identity documents issued by the CMB;
- Database of persons who have acquired restored or lost Estonian citizenship.

One of the important tasks of the CMB is to provide other government agencies with information needed in their work. The Ministry of Internal Affairs, the Police Board, the Security Police Board, the Board of the Border Guard, the Tax and Customs Board, notaries, courts, etc. identify persons on the basis of information included in databases and application dossiers preserved in the CMB. In collecting data and exchanging information the CMB also co-operates with the Ministry of Foreign Affairs, the Ministry of Economic Affairs and Communications, the Bureau of the Minister of Population Affairs, the Statistical Office of Estonia, the Population Register and other government agencies as well as local government authorities. The co-operation with the relevant foreign authorities is increasing year by year.



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