

EMN INFORM

The Application of Quotas in EU Member States as a measure for managing labour migration from third countries

1. INTRODUCTION

This short EMN Inform¹ provides information on the use of quotas² by Member States as a measure to manage labour migration from third countries, as well as in relation to secondary movement of third country nationals, exercising mobility for the purpose of employment within the EU.

2. KEY POINTS TO NOTE

- ★ Member States do apply quotas or limits as measures to manage labour migration from third countries (e.g. **Austria, Estonia, Hungary, Italy, Portugal, Slovenia, United Kingdom** (limits) **Norway**³);
- ★ The approach to quotas varies from hard caps (**Austria**) to softer targets, which in some cases are not met by the supply of labour (**Hungary, Norway**), and do not therefore appear to have the express intention of **limiting** migration;
- ★ Quota limits may be based on various measures; a percentage of national labour supply (**Austria**,

¹ Information sources include: the EMN Studies *Satisfying Labour Demand through migration* (2010); *Intra-EU mobility of third-country nationals* (2013) and EMN Annual Policy Reports 2010, 2011 and 2012; as well as relevant Ad-Hoc Queries.

² The EMN Glossary defines a quota as '*a quantitative restriction in the migration or asylum context. Many countries establish quotas, or caps, on the number of migrants to be admitted each year'*

³ Where Member States (and Norway) are listed, these are not necessarily exhaustive.

Slovenia); permanent population (**Estonia**); the number of requests in the previous year (**Hungary**); and labour market assessments (**Italy, Portugal, Slovenia, UK**). In **Norway**, a flat quota rate applies for highly skilled workers since 2002;

- ★ Where recent changes in quota levels have been reported, the drivers identified have been in response to the economic downturn (**Czech Republic, Estonia, Italy, Portugal, Slovenia**) and to attract high level skilled workers (**Estonia**). National debates where reported (**Italy, Portugal**) have balanced interests in protecting national labour markets with concerns about potential skill shortages in some sectors;
- ★ Quotas may be formally agreed with third countries through **bilateral agreements**, for example, in **Germany** and **Italy**;
- ★ Mobile Third Country Nationals employed in one Member State and seeking to move to a second Member State are likely to be **subject to quotas if applied in the Member State of destination**. This is not the case for some categories of third country nationals whose mobility is provided for through the EU acquis.

3. THE USE OF QUOTAS IN MANAGING MIGRATION FROM THIRD COUNTRIES FOR LABOUR DEMAND

3.1 Overview

In order to identify and manage labour demand, Member States undertake a number of different approaches. These include⁴:

- ★ the drawing up of occupation lists where labour shortages exist (**Austria, Belgium, Finland, France, Germany, Latvia, Lithuania, Poland, Spain, United Kingdom**);
- ★ the use of Employers Needs Analysis (**Austria, Belgium, Czech Republic, Estonia, Germany, Hungary, Ireland, Italy, Lithuania, Luxembourg, Malta, Poland, Slovak Republic, Slovenia, Spain, , Sweden**) to directly analyse the labour needs of the labour market; and
- ★ the setting of quotas (e.g. **Austria, Estonia, Hungary, Italy, Portugal, Slovenia, Norway**) or Limits (**United Kingdom**), in order to ensure that the immigration of third-country nationals for reasons of employment does not exceed the demand for labour. Institutional bodies, as well as employers and occupational organisations, play a key role in the implementation of the above methods.

Quotas may involve 'hard' annual caps that must not be exceeded (e.g. **Austria**) or can represent 'soft' target levels that represent a guide to numbers of admissions (e.g. **Hungary and Norway**); where these are 'hard,' they can have various political advantages, and may create the perception that the government is 'in control' of immigration⁵. In relation to specific Member States:

- ★ Work permits in **Austria** are subject to annual quota regulations: the total number of work permits is capped (Federal State quotas) to the extent that the number of employed and unemployed foreigners does not exceed 8% of the total dependent labour supply (291 000 for 2010).⁶ In some special cases, a work permit can be granted by the governor beyond this quota up to a limit of 9% of the labour supply;

★ Similarly, **Slovenia** also links work permits to a quota limiting the number of third-country nationals allowed on the labour market annually. It fluctuates from year to year, dependent on conditions of the labour market, but may not exceed 5% of the actively working national population;

- ★ In **Estonia**, the immigration quota of maximum 0.1% of the permanent population is also applicable for labour migration to Estonia. The immigration quota is mostly distributed to third-country nationals applying for residence permits for the purpose of employment. From 2008-2010 the quota of 0.075 per cent of the permanent population of Estonia has been annually set by the Government;
- ★ The Minister for Labour and Social Affairs in **Hungary** is responsible for setting the number of work permits to be issued to third-country nationals. This quota may not exceed the requested workers reported during the previous year (according to the available date in 2009, the number of the issued work permits was less than 30% of the quota);
- ★ In **Italy**, instructions are prepared on the basis of employment and unemployment rates at national and regional levels. Assessments are carried out by regional and local organisations and associations of entrepreneurs, which form the basis for the Prime Minister to produce circulars which divide the global entry quota for work between the Regional Directorates and the autonomous provinces;
- ★ An overall quota is fixed for third-country national workers in **Portugal** every year, based on the annual estimates of the needs of the labour market established by the Cabinet after reports from the Permanent Council for Social Coordination and the *Ministry for Labour and Social Solidarity*;
- ★ In **Slovenia**, the setting of quotas is the **main instrument** of limiting the number of third-country nationals in the labour market. The quota is proposed by the *Minister for Labour* and is set annually taking into account fluctuations and conditions of the labour market. The quota may never exceed 5% per cent of the actively working population in the country, on an annual basis;
- ★ The **United Kingdom** did not establish quotas or limits following the introduction of the 'points based system' (PBS) since it was assumed that the number of points required for entry could be changed as circumstances or policy dictated. However, since the General Election in May 2010,

⁴ See also Annex 1

⁵ Oxford Review of Economic Policy, Volume 24, Number 3, 2008, pp.403-426

⁶ Art.12a Aliens' Employment Act

where it was announced that third-country national workers entering through the PBS would be subject to new limits⁷, and an annual limit was introduced in April 2011 of 20 700 for those coming into the United Kingdom under the skilled and highly skilled routes. This limit is composed of 20 700 places under Tier 2 and 1 000 places under a new Tier 1 "exceptional talent" route;

- ★ **Norway** maintains a quota for new permits to **skilled labour migrants** from outside the European Economic Area, currently for 5 000 persons per year. The annual maximum quota for new permits has been fixed at 5 000 since 2002, a level that so far has not been exceeded⁸.

For **seasonal workers**, in **Austria** and **Italy** the number of work permits issued for seasonal work is subject to quota regulations; in **Italy**, an employer can also apply for a seasonal work permit lasting for a maximum of 3 years. In **Germany**, the Federal Ministry of Labour and Social Affairs issued annual quotas for the employment of seasonal workers; in 2011, this quota amounted to 150,000 persons. For **United Kingdom** a quota applies to seasonal workers from Bulgaria and Romania; in 2009, this was 21 250 places.

3.2: Recent changes in quota levels

Change in approaches to quotas, where reported, appear to have arisen from two main drivers: changes in national economies resulting from the **economic downturn**, and also in relation to the desire to attract migrants with **high level skills**. Changes have been reported in several Member States (**Czech Republic, Estonia, Italy, Portugal, Slovenia, Slovak Republic**):

- ★ In **Czech Republic**, following the economic downturn, in 2009 quotas on visa applications have been implemented with regard to 5 main source countries of the economic immigration - Vietnam, Moldova, Mongolia, Uzbekistan, Ukraine;
- ★ In **Estonia**, amendments made to the *Aliens Act* in 2008 were clearly aimed at facilitating (highly) skilled workers to take employment in Estonia. For that purpose, the processing terms for applications for residence permits were shortened (from six months to two months), the immigration quota was **increased** from 0.05% to 0.1% of Estonian

population and salary criteria were established for the employers;

- ★ In **Italy**, access to the labour market was only granted for short-term workers filling the seasonal quota until the end of 2010 as a result of the crisis. In addition, a new programme was adopted in **Italy** in 2011 in order to address the increased need for highly-qualified workers;
- ★ In **Portugal**, quotas of third-country nationals admitted for the purpose of employment were also reduced;
- ★ In **Slovenia**, while a migrant workforce is used to fill short-term or cyclical shortages in the labour market, the further development of the domestic workforce is prioritised over the use of a migrant workforce; since the economic crisis, access of third-country nationals has been restricted, for example, by reducing the quota from 2009 to 2010;
- ★ **Slovak Republic** planned to introduce quotas for some work positions to be assessed, including quotas for certain types of trade licences in 2012; however, these measures have now been postponed.

3.3: National debate on quotas

Quotas have been the subject of recent **policy debates** in several Member States:

- ★ In **Italy**, every three years, a "*long-term programme on immigration policy and foreigners on State territory*" is prepared, which sets out the policies on immigration. Each year a quota for incoming migrants is set in the "Flows Decree". The Government's decision **not** to set quotas for economic migrants in 2009 was met with much criticism and debate. The Government argued that the economic crisis had caused high unemployment rates and that third country nationals already living in Italy had to be prioritised.⁹ However, opponents to the decision argued that this created inflexibility in the skills-base of the migrant community, particularly in the care-sector;
- ★ In **Portugal**, intensive debate in 2009 focused on the reduction of quotas for third-country nationals admitted for the purposes of employment due to the economic crisis, with political parties taking contrasting stances on the positive effects of such action.

⁷ See also the UK Border Agency website:
<http://www.ukba.homeoffice.gov.uk/sitecontent/newsfragments/35-t1-t2-annual-limits>

⁸ Norway APR (Annex) 2011

⁹ Following a prolonged break, the quota was reintroduced in Italy at the end of 2010 with 98 800 new entries.

The process of setting quotas is often undertaken in consultation with stakeholders:

- ★ In **Italy**, regional authorities have argued for greater future involvement in policy decisions over quotas on migrant workers, as they claim to have a firm knowledge base on the sectors which suffer labour shortages in their regions. At present, they represent one of the stakeholders consulted by the *Ministry of Labour and Social Policy* and the Prime Minister in order to inform the *long-term programme on immigration policy and foreigners on State territory*;
- ★ In **Portugal**, the collection of opinions from diverse actors has played a prominent role in shaping economic immigration with regard to the setting of quotas, with stakeholders from both national companies and migrant worker groups consulted on the effects of quotas to assist the *Ministry for Labour and Social Solidarity's* reports on this issue.

3.4: Cooperation agreements including employment and labour migration

In many cases, quotas are included in bilateral and other agreements concluded with third countries for the purpose of labour migration:

- ★ In **Germany**, bilateral agreements were concluded with the majority of the countries of Central and Eastern Europe on access to the labour market for workers. Based on quota systems, these included agreements on contract workers allowing companies to second their workers to Germany for a limited period of time for the purpose of completing work in cooperation with a German company.¹⁰ Agreements were also concluded concerning the employment of guest workers, for up to 18 months, for the purpose of undergoing advanced vocational and language training. These agreements have only been partially utilised in Germany, with only 742 guest worker placements registered in 2008, out of a set quota of 11 050;
- ★ In **Italy** preferential quotas are assigned to specific categories of third-country workers from countries where bilateral agreements to regulate entry flows for reasons of employment have been / will be concluded (e.g. Republic of Moldova, Morocco and

¹⁰ This framework imposes a limit on the number of workers who can be seconded on the basis of a quota, adaptable to the developments of the labour market each year. For example, in the period between October 2008 and September 2009, the quota encompassed 46 740 workers from all 13 signatory states. However these quotas have only been partially utilised, with 16 576 contract workers employed in **Germany** in 2008.

Egypt) and/or signed agreements under procedures for re-admission;

- ★ **Germany** entered into an agreement with **Bulgaria** which allows young Bulgarian nationals, from 18 to 35 years old, with a vocational education background, to work in Germany, under a two-year work permit, extendable up to three years. After amendment to this Agreement in 2003, the quota of Bulgarian nationals admitted in Germany grew from 1 000 to 2 000. Depending on the dynamic of the labour market, the quota may be adjusted;
- ★ Both **Lithuania** and the **Slovak Republic** have entered into bilateral agreements concerning the exchange of trainees. The **Slovak Republic** entered an agreement with Switzerland on the *Exchange of Trainees* in 1995. This agreement provides a quota of 100 persons annually which is filled by young people from the **Slovak Republic**. A bilateral agreement has been signed between the **Slovak Republic** and **Germany** concerning the employment of workers for broadening their professional and language skills, with the annual quota of 1 000 workers included in this agreement always filled.

3.5: Quotas and mobile third country nationals.

In most Member States, mobile third-country nationals do not receive any preferential treatment in comparison to newly arrived third-country nationals and thus must obtain a work permit under the same conditions as third-country nationals coming directly from outside the EU (**Belgium, Belgium, Greece, Finland, France¹¹, Hungary, Ireland, Italy, Lithuania, Luxembourg, Netherlands, Malta, Sweden, United Kingdom**), subject to a process of labour market testing or to labour market quotas¹².

However in practice, processes and the resulting granting of work permits to third country nationals shows both commonalities and variances across Member States. However, in some Member States concession are granted, particularly for those third country national's whose mobility is provided for under EU Directives for long term residents and specific categories of workers.

¹¹ In France, with the exception of EU Blue card workers and third-country nationals already residents of another EU Member State providing temporary services in France for an employer based in another EU Member State, mobile third-country nationals are subject to a labour market test.

¹² Synthesis Report for EMN Study on Intra-EU Mobility of Third-Country Nationals (2013)

ANNEX 1:

Approaches used by Member States (and Norway) to identify and manage labour demand from third countries:

Method	Occupation list	Employer needs analysis	Quote / limit setting
Austria	X	X	X
Belgium	X	X	
Bulgaria			
Czech Republic		X	
Estonia		X	X
Finland	X		
France	X		
Germany	X	X	
Hungary		X	X
Ireland		X	
Italy		X	X
Latvia	X		
Lithuania	X	X	
Luxembourg		X	
Malta		X	
Netherlands			
Poland	X	X	
Portugal			X
Slovak Republic ¹³		X	
Slovenia		X	X
Spain	X	X	
Sweden		X	
UK	X		X
Norway			X

Source: EMN 2010 Study *Satisfying Labour Demand through migration*

¹³ The demand for specific skilled labour is solved on an ad-hoc basis by the employers themselves rather than systematically