



## Ad-Hoc Query on the Single Permit

Requested by SI EMN NCP on 16<sup>th</sup> November 2009

Compilation produced on 11<sup>th</sup> January 2010

Responses from Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Hungary, Latvia, Lithuania, Netherlands, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom (15 in Total)

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### **1. Background Information**

The Republic of Slovenia considers introduction of a single permit allowing a third country national residence and work. Therefore we would like to know which countries already have a system similar to the one proposed in the proposal for 'The single permit' directive pending in The Council. Also a short description of the procedure of granting the single permit and legal remedies would be useful, in particular:

1. Does your country have a single permit system? If yes,:
2. Does the single permit system apply to all third country economic migrants or only to specific groups?
3. Does the single permit system apply only to economic migrants or also to migrants residing on other grounds and having access to labour market?
4. Which authority accepts the application and which examines and decides upon it? (Is it an 'immigration', 'labour' or specially designated authority?)
5. Is there a system of 'codecision' of immigration and labour authority or is there a system of prior/additional approval of decision of one authority?
6. What is the format of the single permit? Does it contain remarks with details regarding access to labour market? Are there any additional documents issued in the process (work permits etc)?

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7. Which authority provides legal remedy (appeal against first-level decision)?

We would appreciate your response **by the 30<sup>th</sup> November 2009**.

## 2. Responses

		Wider Dissemination?	
	<b>Austria</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Belgium</b>	<b>Yes</b>	Belgium doesn't have a single permit system yet.
	<b>Czech Republic</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes, the green card scheme.</li> <li>2. The scheme is open for selected nationalities and for all levels of qualification. The permit varies from 3 to 2 years depending on the level of qualification and is renewable with the exception of unqualified workers.</li> <li>3. Besides economic migrants, the scheme applies to the third country nationals residing in the territory for 2 years.</li> <li>4. The application is accepted by the diplomatic missions abroad and the Ministry of the Interior, if submitted in the territory, and decided on by the Ministry of the Interior, i.e. the immigration authority. Ministry of the Interior takes into consideration opinion of the diplomatic mission of the Czech Republic transmitted with the application.</li> <li>5. The Ministry of the Interior reviews whether the conditions of submission of application were fulfilled, whether the requirements as to education and qualification for the specific job, as well as integrity and health (if there is doubt of serious illness) are fulfilled. In cooperation with other state administration bodies, the Ministry of the Interior checks whether the job offer is conform to the law on employment, and, if need be, whether the employer does not violate law on employment. The employer has right to deliver whether he/she intends to employ the foreigner.  The labour authority plays key role in the inceptive phase, as it is the Ministry of Labour and Social Affairs, through its employment offices, who announces, upon employer's request, the job vacancies open to prospective green card holders. Ministry of Industry and Trade must agree to the announcement in case of key personnel (senior management, highly qualified specialists for certain tasks, employees possessing knowledge that is necessary for the company functioning, whose lack would jeopardize the company functioning or cause economic losses) in case that the employer does not intend to open the position but for foreign nationals.</li> <li>6. The single permit is issued in form of passport sticker. The variations in types (as mentioned in the answer No. 2), are indicated on it as type A, B or C. A-type is for highly qualified workers and key personnel, B-type for skilled workers, and C-type for unqualified workers.</li> <li>7. The procedure of issuance of green card is not regulated by the provisions on administrative procedure of the Rules of Administrative Procedure (Act No. 500/2004 Coll.) and no decision in terms of Section 67 et sequentes of the Act is rendered. There is no legal title to issuance of the permit and it is not possible to appeal against the decision.</li> </ol>
	<b>Estonia</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes.</li> <li>2.-3. The single permit system applies to all economic migrants and others who need to apply for a work permit additionally to residence</li> </ol>

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			<p>permit. Only migrants who apply residence permit for the purpose of studies and aliens who have committed a criminal offence and are retired from the foreign state's army need a work permit to work in Estonia. Aliens who hold residence permit on the basis of sufficient legal income are not allowed to work in Estonia. All other migrants are allowed to work without a separate work permit.</p> <p>4. The Citizenship and Migration Board accepts the applications, examines them and makes the decision regarding them.</p> <p>5. There isn't a system of "co-decision". In the CMB the Aliens Department is processing and making the decision regarding the residence and if necessary the work permits. There is a single application form for residence and work permit.</p> <p>6. Most of the residence/work permits are issued in the form of ID-card. There is also a possibility to apply for a sticker. The information on the ID-card and sticker is the same. Additionally to the personal data and the residence permit type, there are the following remarks regarding the work permit:</p> <ul style="list-style-type: none"> <li>- allowed to work until (...date) /the registration code of the employer/ position (this is used when issued residence permit for employment)</li> <li>- needs work permit for employment (used in the case when the alien has residence permit on some other ground than employment and for work s/he needs to apply for a work permit (students, criminals))</li> <li>- not allowed to work (used when issued residence permit on the basis of sufficient legal income)</li> </ul> <p>You may find the specimens <a href="#">here</a>.</p> <p>7. Any complaint may be filed against the decisions made by the CMB regarding residence permit or work permit to the administrative court or such decisions may be challenged within ten days after the date of notification of the decision. A decision on the challenge may be appealed in an administrative court within the same term.</p>
+	<b>Finland</b>	<b>Yes</b>	<p>1. Yes</p> <p>2. The single permit system applies to all third country economic migrants. This applies to both employed persons and self-employed persons. Family members of those persons have a working permit regardless of the restrictions on the employed person's right to work.</p> <p>3. Principally yes, the single permit system applies to all migrants residing in Finland. Situations in which the main principle does not apply are mentioned in Sections 79 and 80 of the Aliens Act. The Sections above determine the field of work for which the aliens is entitled to.</p> <p>4. Immigration Service is responsible for the final decision. The employment and economic development office is in charge of deliberations concerning employment and means of support. It makes a preliminary decision, either accepting or rejecting the application, which it forwards to the Finnish Immigration Service. Regarding self-employed persons the profitability of the business activity is estimated on the basis of various reports that are obtained in advance, such as the business plan or binding preliminary contracts and funding agreements. The deliberation is conducted by the Employment and Economic Development Centre.</p> <p>5. See above.</p> <p>6. Residence permit may be sector or employer-specific. The employment and economic development office is in charge of deliberations concerning employment and means of support. If the residence permit is issued under Sections 79 or 80, the field of work is limited to the tasks mentioned in the Sections above.</p> <p>7. Administrative court.</p>

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	<b>Germany</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes. The residence title also determines to which extent gainful employment shall be permitted.</li> <li>2. This regulation equally applies to all third country nationals.</li> <li>3. The regulation also applies to third country nationals whose original residence purpose is not gainful employment but who are allowed access to the labour market.</li> <li>4. The application for a residence title is to be filed at the local public authority responsible for aliens. The public authority responsible for aliens then decides upon the application including the question to which extent gainful employment shall be permitted if the residence title does not already permit by act of law access to the labour market anyway (e.g. in case of a residence permit granted to persons whose refugee status has been determined). Accordingly, during the visa procedure, the agency abroad responsible for the issuance of such visa is obliged to obtain the approval of the public authority responsible for aliens before granting the visa.</li> <li>5. For its decision on the permission to carry out gainful employment, the public authority responsible for aliens obtains the approval of the corresponding department at the German Federal Employment Agency unless the approval is dispensable in any given case because of the alien's residence status or the type of his / her employment. As this is an in-house administrative procedure, the public authority responsible for aliens remains the only contact point for the alien (one-stop-government).</li> <li>6. The format of the residence permits, which also includes the entry on employment, is determined by the applicable versions of the Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas and Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals.</li> <li>7. The decision of the local aliens office can be appealed with the superior Federal state authority. Against the refusal of a visa for employment purposes made by a German diplomatic mission a non-formal remonstrance can be filed to the Federal Foreign Office. As a formal appeal, the possibility exists for an action before the Administrative Court.</li> </ol>
	<b>Hungary</b>	<b>Yes</b>	Hungary doesn't have a single permit system.
	<b>Latvia</b>	<b>Yes</b>	Single permit system in Latvia has not been introduced however there are some areas where this system works partially. For example, in case of family reunification a foreigner is issued a residence permit and work permit. These are two separate documents but the foreigner does not have to apply for a work permit separately, it is issued in the framework of single (residence permit) process. Issuance of this document is automatic and Office of Citizenship and Migration Affairs does not have to consult any Employment office to get an approval. At the moment Latvia is working on introducing a one stop agency which means that from July 2010 a foreigner and his employee will not be obliged to apply for a work permit in State Employment Agency and after that – in Office of Citizenship and Migration Affairs to get a residence permit but all procedure will be handled solely by Office of Citizenship and Migration Affairs.
	<b>Lithuania</b>	<b>Yes</b>	Lithuania doesn't have a single permit system. The employer must address the Lithuanian labour exchange in order to obtain a work permit for an alien; and the alien must address a Lithuanian consulate (if abroad) or a migration service (if in the country) in order to obtain a residence permit. These two procedures end up with the issue of a residence card which has an indication to the article of the Aliens' law which was the ground to issue the residence permit.
	<b>Netherlands</b>	<b>Yes</b>	No. In the Netherlands a work permit and a residence permit are two separate permits; each of them has his own legal grounds and system. The work permit is issued by the Employees Insurance Agency (labour authority), while the resident permit is issued by the Immigration Service. However, in the Netherlands the employer has the possibility to submit an application digitally for a (provisional) residence

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			permit and a work permit at once in a combined application procedure. After the approval of this application, a (provisional) residence permit will be granted by the Immigration Service and a work permit will be granted by the labour authority separately.
	<b>Portugal</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes.</li> <li>2./ 3. In Portugal the single permit system applies to all third country nationals.</li> <li>4. The Immigration and Borders Service.</li> <li>5. No. The Immigration and Borders Service is the entity who decides. Nevertheless in formalities proceeding the granting of visas the Immigration and Borders Service must apply for and obtain from other entities appraisals, information and other required complementary data for fulfilling the stipulations of the law (Immigration Act) in matters of residency and temporary stay visa granting.</li> <li>6. The single permit is issued as an electronic card. It contains a reference concerning the holder's activity, under the Portuguese legal framework.</li> <li>7. The decision which denies the residence status is liable of judicial review before the administrative courts.</li> </ol>
	<b>Slovak Republic</b>	<b>Yes</b>	Slovakia doesn't have a single permit system.
	<b>Slovenia</b>	<b>Yes</b>	Slovenia doesn't have a single permit system.
	<b>Sweden</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes.</li> <li>2. The single permit system applies to all third country economic migrants.</li> <li>3. It applies to all migrants from a third country residing in Sweden irrespective on the grounds for the permit.</li> <li>4. The Swedish Migration Board.</li> <li>5. There are no codecision between the Migration Board and the Labour Authorities.</li> <li>6. The Single permit contains both a residence permit and a work permit and also remarks with details regarding access to the labour market. No additional documents are issued.</li> <li>7. The Migration Court. The possibility to appeal against the part of the decision that concerns the access to the labour market is limited.</li> </ol>
	<b>United Kingdom</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. The UK has a five-tier Points-Based System that applies to all economic migrants from outside the EEA. The five tiers are as follows: <ul style="list-style-type: none"> <li>- Tier 1: Highly skilled individuals who will contribute to growth and productivity</li> <li>- Tier 2: Skilled workers with a job offer to fill gaps in the UK labour force</li> <li>- Tier 3: Limited numbers of low skilled workers needed to fill temporary labour shortages (indefinitely suspended due to availability of EEA workers)</li> <li>- Tier 4: Students</li> <li>- Tier 5: Youth mobility and temporary workers who are satisfying primarily non-economic objectives</li> </ul> </li> <li>2. Please see answer above</li> <li>3. The Points-Based System applies only to economic migrants.</li> </ol>

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			<p>4. Applications under the Points-Based System are submitted to and decided by the UK Border Agency. The UK Border Agency is an executive agency within the Home Office and is responsible for managing immigration to the UK.</p> <p>5. Decisions on applications are made entirely by the UK Border Agency. However, the structure of the Points-Based System and any major changes to it must be agreed across Government, including economic Departments. Tier 2 of the system also contains the following labour market checks: (i) Tier 2 includes a Shortage Occupation List. Jobs on this list attract extra points. The list is reviewed twice a year by the independent Migration Advisory Committee to reflect the current labour market situation. (ii) Jobs not on the Shortage Occupation List must pass a Resident Labour Market Test. Employers must advertise the job via approved channels to see if a suitable UK or EEA national can be found to fill the job. A migrant worker can only apply under Tier 2 if no suitable UK or EEA nationals are available.</p> <p>6. The format is a vignette that is added to the applicant's passport. This contains details of the applicant, dates of leave (permission to be in the UK), and any employment restrictions. Applicants under Tiers 2 and 5 must have a Certificate of Sponsorship from a UK employer licensed by the UK Border Agency. This is a reference to a database record containing the full details of employment. The database reference number is included in the passport vignette. A similar system exists for students applying under Tier 4. The UK is gradually replacing passport vignettes with Identity Cards for Foreign Nationals, which contain biometric details in addition to the information currently held on vignettes.</p> <p>7. Out-of-country applications have no right of appeal. An administrative review process exists instead. The applicant can ask the UK Border Agency to review its decision if he/she thinks that an error has been made. Some applications made in the UK have a statutory right of appeal. These appeals are heard by the Asylum and Immigration Tribunal, which is part of the Tribunals Service, an executive agency of the Ministry of Justice.</p>
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