



## **Ad-hoc query on the checks conducted during processing of a residence permit application**

**Requested by EE EMN NCP on 31<sup>st</sup> January 2012**

**Compilation produced on 27<sup>th</sup> February 2012**

**Responses from [Czech Republic](#), [Estonia](#), [Finland](#), [France](#), [Hungary](#), [Latvia](#), [Lithuania](#), [Luxembourg](#), [Netherlands](#), [Romania](#), [Slovak Republic](#), [Sweden](#), [United Kingdom](#) (13 in Total)**

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### **1. Background Information**

In 2011, the Police and Border Guard Board noticed an increase of applications from third-country nationals for temporary residence permit for the purpose of employment and engagement in enterprise. Ex-post checks revealed that a lot of the temporary residence permits issued for the two bases mentioned above were actually abused by the third-country nationals in that the residence permit were not used in accordance with their terms.

Due to the above the Estonian Ministry of the Interior and the Police and Border Guard Board are looking into ways of changing the ex-ante and ex-post checks currently conducted either during processing of the application or validity of the issued permit. For that the Police and Border Guard Board is also interested in finding out the practice of other Member States.

Apologies for the short deadline, but we would be grateful if you could submit your replies as early as **6 February 2012**.

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**2. Responses**

		Wider Dissemination? <sup>1</sup>	<ol style="list-style-type: none"> <li>1. Ex-ante checks conducted in the processing of a temporary residence permit:               <ol style="list-style-type: none"> <li>1.1 Based on what conditions is it possible to apply for a residence permit:                   <ol style="list-style-type: none"> <li>1.1.1 for a third-country national for the purpose of employment?</li> <li>1.1.2 for a third-country national for the purpose of engagement in enterprise?</li> </ol> </li> <li>1.2 What kind of additional checks are conducted in order to ensure that the application for a temporary residence permit for the purpose of either employment or engagement in enterprise is used accordingly and is reasoned?</li> <li>1.3 Are there any other authorities involved in the processing of a temporary residence permit applications besides the main authority? If yes, then which authorities and for what purpose?</li> </ol> </li> <li>2. Ex-post checks conducted in regards to a temporary residence permit:               <ol style="list-style-type: none"> <li>2.1 Are there any ex-post checks conducted in relation to a third-country nationals who has received a temporary residence permit to ensure that the temporary residence permit is used in accordance with the terms of issuance and that such issuing is continuously reasoned?</li> <li>2.2 In which cases are third-country nationals placed under ex-post checks?</li> <li>2.3 What methods are used for conducting ex-post checks?</li> </ol> </li> </ol>
	<b>Czech Republic</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>Estonia</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Ex-ante checks conducted in the processing of a temporary residence permit:           <ol style="list-style-type: none"> <li>1.1 A third-country national wishing to reside in Estonia has to prove that his purpose for residing in Estonia is reasoned, have an actual place of residence, sufficient legal funds, which would allow the third-country national and his or her family members to live in Estonia and also have health insurance, which would cover costs related to treatment in case of illness or injury. Such general conditions for issuing a temporary residence permit have to be fulfilled in case of all temporary residence permits (regardless of the basis).               <ol style="list-style-type: none"> <li>1.1.1 Temporary residence permit for employment may be issued to a third-country national for employment at an employer registered in Estonia for a position, which has not been filled with an Estonian citizen, EU citizen or a third-country national residing in Estonia on the basis of a residence permit who would correspond to posed qualification and professional skills requirements after a three week open competition procedure and using a national employment mediation service. The employer is obliged to pay the third-country national an income that is at least equal to the product of an Estonian average annual salary recently published by Statistics Estonia and coefficient 1,24. The third-country national also has to have qualification, education, state of health, work experience and professional skills required to fill the position. Additionally to these general conditions there are also special cases foreseen when the requirement of an open competition and salary criterion is not applied.</li> <li>1.1.2 Temporary residence permit for the purpose of engagement in enterprise may be issued to a third-country national who has a</li> </ol> </li> </ol> </li> </ol>

<sup>1</sup> A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<p>holding in a commercial undertaking or who acts as a self-employed person, if the commercial undertaking or the self-employed person is registered in Estonia's commercial register, business is necessary, from the national interest, in the development of Estonia's economy and residence of the third-country national in Estonia important for the business. In order to receive a residence permit the third-country national has to possess sufficient monetary funds for engagement in enterprise in Estonia, including 63 900 euro worth of capital under his or her control, which has been invested into business activity in Estonia and also a business plan from which it's possible to follow the nature, extent of the business and also the number of personnel, their qualification and skills required for the business. In order to act as a self-employed person the third-country national has to invested in Estonia the capital in the amount of 15 950 euro.</p> <p>1.2 In order to ensure that the application for a temporary residence permit for the purpose of either employment or engagement in enterprise is used accordingly and is reasoned evidence and data is collected during the processing of the application on the initiative of the Police and Border Guard Board (who processes the applications), also inquiries are made to different national data bases and other authorities are involved.</p> <p>1.3 During the processing of a temporary residence permit, the official makes inquiries in order to evaluate circumstances to different state and local authorities, legal and private persons. Involved are for example the Estonian Health Insurance Fund for checking the insurance coverage, the Estonian Tax and Customs Board for checking of the income, the Estonian Unemployment Insurance Fund, who gives the employer permission to fill a vacancy with a third-country national, and other relevant authorities.</p> <p>2. Ex-post checks conducted in regards to a temporary residence permit:</p> <p>2.1 Yes.</p> <p>2.2 A third-country national is placed under ex-post checks in case there is reasonable doubt in relation to that third-country national that the application for a residence permit was not reasoned and is not used in accordance with the terms of issuance, but on the basis of data collected during the processing it is not possible to sufficiently prove such doubts.</p> <p>2.3 For conducting ex-post checks ways least cumbersome for the person, which would help to obtain necessary data. If necessary, the official may carry out on-spot checks, interviews or checks of data bases in order to ensure operational ability of the enterprise.</p>
+	<b>Finland</b>	<b>Yes</b>	<p>1.1.1. Foreign employees who are non-EU citizens and equivalent persons need a residence permit for an employed person if they intend to work in Finland. An alien who has entered the country either with a visa or visa-free is not allowed to engage in remunerated employment in Finland but, rather, has to apply for a residence permit. A residence permit can be granted on the basis of either temporary work or work of a continuous nature.</p> <p>In granting the permit, the needs of the labour market are taken into consideration. The aim of the residence permit praxis is to support the possibility of those who are on the employment market to gain employment. Thus, the availability of work force is also supported.</p> <p>Granting a residence permit for an employed person requires that the alien's means of support be guaranteed. The employment and economic development office will estimate both the labour political requirements and the sufficiency of the means of support.</p> <p>1.1.2. Non-EU citizens need a residence permit for a self-employed person in order to engage in business activities in Finland. In order to be granted a permit, the applicant's business activity must be profitable. 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</p>

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			<p>deliberation is conducted by the Centres for Economic Development, Transport and the Environment.</p> <p>1.2. In order to determine, whether the third country national has applied for the residence permit accordingly for working purposes in Finland or for self-employed reasons, the Finnish embassies abroad examine the applicants' certificates for studies and work plus regular interviews take place in order to determine the alien's real purpose and motivation for entering Finland. If the alien has applied residence permit for an employed person but there is reasonable doubt that the application has been made for other purposes in Finland (eg. family members in Finland and formerly rejected application for family reunification), the alien will be interviewed to examine if he or she actually qualifies for the position. With interviews Finnish Immigration Service also strives to find out, whether it is possible that the alien will be exposed to work related exploitation or even trafficking of human beings if entering Finland. Also third country nationals</p> <p>1.3. Yes, the Employment and Economic Development Office will estimate both the labour political requirements and sufficiency of the means of support.</p> <p>2.1. Yes.</p> <p>2.2. If the terms of issuance are no longer fulfilled (extension of residence permit) or there is reasonable doubt that the residence permit was issued on falsified grounds.</p> <p>2.3. Ex-post checks may be such as checks to a relevant database, payslips and/or bank statements for proving the sufficiency of the means of support. If relevant, the employer may also be contacted. Ex-post checks are mainly carried out during residence permit's extension process (if necessary). As a rule, the police will decide upon the granting of extensions to permits, irrespective of where the application was submitted. The District Police may refer a matter falling under its jurisdiction to the Finnish Immigration Service for decision if the investigation of the matter and any decisions on the matter require the expertise of the Finnish Immigration Service because of the nature of the matter, or if the matter is important for the application of the Act to other similar cases (Aliens Act Section 210).</p>
	<p><b>France</b></p>	<p align="center"><b>Yes</b></p>	<p><b>1.1.</b> To be granted a residence permit in France, third country nationals generally should:</p> <ul style="list-style-type: none"> <li>• be issued a long term visa;</li> <li>• fulfill the condition of legal residence at the time of application;</li> <li>• not constitute a threat to public order.</li> </ul> <p>Moreover, implementation of the Schengen convention has important consequences on the issuance of residence permits. According to Article 25 of the Convention, if a third country national is reported for non-admission by either Party, a residence permit can be issued only for serious reasons, including humanitarian grounds or international obligations, and after consulting the party reporting.</p> <p>1.1.1. Before issuing a specific temporary residence permit for the purpose of employment, French authorities issue a work authorization after assessing:</p> <ul style="list-style-type: none"> <li>- the employment situation in France and the search of the employer: the company must provide evidence of its failed search for an applicant on the labour market in France.</li> <li>- consistency of the occupation with diploma and professional experience;</li> <li>- compliance with labor regulations and social protection by the employer and the employee;</li> <li>- work conditions and salary proposed to the employee;</li> </ul>

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			<ul style="list-style-type: none"> <li>○ <u>Conditions under which a specific temporary residence permits are issued:</u></li> </ul> <p><b>A temporary residence permit is generally valid for one year, with certain exceptions.</b></p> <ul style="list-style-type: none"> <li>- If a third country national applies for an <b>“employment” or a “temporary worker” temporary residence permit</b>, French authorities assess the criteria mentioned above before issuing a residence permit. If the planned occupation is among the so-called shortage occupations, for which there are recruiting difficulties, the employment situation is not applicable.</li> </ul> <p>Procedure is simplified for executive or high-level managers who are employed by a French company belonging to an international group for at least six months and who receive gross monthly compensation greater than or equal to 5,000 euro. In that case, the employment situation is not applicable.</p> <ul style="list-style-type: none"> <li>- <b>To be granted a European "blue card"</b>, the third country national has to provide a minimum one-year contract. He/she should have a three-year university degree or a five-year professional experience. He/she should receive a gross monthly compensation exceeding 4,300 €. The employment situation in France cannot be opposed. <b>The period of validity of the European “blue card” could not exceed three years.</b></li> <li>- <b>To be granted a “seasonal worker” temporary residence permit</b>, the third country national must have his/her regular residence outside France and the duration of his/her seasonal work contract must be greater than three months but must not exceed a total period of six months to a year. The employment situation in France is applicable.</li> <li>- <b>To be granted an "employees on assignment" temporary residence permit</b>, the third country national has to be an employee transferred to France by an employer established outside the country. He/she should work with the company for at least 3 months. His/her transfer in France is established between two organizations of the same company or between two companies of the same group. The residence permit is also issued to third country nationals sent for specific training in France for more than three months in a group company. He/she must receive a gross compensation at least equal to one and a half times the minimum wage. The employment situation cannot be opposed. Other conditions are:             <ul style="list-style-type: none"> <li>● the third country national must carry out a temporary assignment of a least 3 months in France.</li> <li>● the employer of the third country national must prove a real and serious activity abroad;</li> <li>● the third country national must provide special expertise to the French company or completing training to implement a project abroad.</li> </ul> </li> </ul> <p><b>The period of validity of the "employees on assignment" temporary residence permit could not exceed three years.</b></p> <ul style="list-style-type: none"> <li>- <b>To be granted the temporary residence permit for “artistic and cultural professions”</b>, the third country national must have signed a maximum three-month contract with a company whose primary activity consists in the creation or exploitation of intellectual</li> </ul>
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			<p>work. The employment situation is applicable only for production staff.</p> <ul style="list-style-type: none"><li>- <b>To be granted a “skills and talents” residence permit, the third country national does not need a work authorization.</b> He/she has to be able to present a project contributing to the economic development and influence of France and his/her country of origin and to establish his/her ability to complete it. The employment situation cannot be opposed.</li><li>-</li></ul> <p><b>The period of validity of the “skills and talents” residence permit could not exceed three years.</b></p> <p>1.1.2. A third country national can be granted different residence permits for the purpose of engagement in enterprise:</p> <ul style="list-style-type: none"><li>- <b>To be granted a temporary residence permit for commercial, industrial or craft occupation,</b> the third country national must have a project economically viable, consistent with safety, health and public tranquility and complying with the obligations imposed on the national exercise of the occupation considered. The third country national must submit all supporting documents to French authorities which assess the viability of the project and its effectiveness. He/she must exercise a full-time occupation and receive a gross compensation at least equal to one and a half times the minimum wage.</li><li>- <b>To be granted a ten-year residence permit for exceptional economic contribution,</b> the third country national who, personally or through the intermediary of a company that he/she manages or of which he/she holds at least 30% of the capital must:<ul style="list-style-type: none"><li>• create or save, or agree to create or save, at least 50 jobs in France,</li><li>• make or agree to make an investment of at least 10 million euro in tangible or intangible assets within France.</li></ul></li><li>- <b>A third country national can also be granted a “skills and talents” residence permit</b> for the purpose of engagement in enterprise.</li></ul> <p>1.3. French authorities involved in the processing of a residence permit for the purpose of employment or engagement in enterprise are:</p> <ul style="list-style-type: none"><li>- <b>The Regional Directorates for Companies, Competition, Consumption, Work and Employment</b> (Direction régionale des entreprises, de la concurrence et de la consommation, du travail et de l'emploi = DIRECCTE), which issue work authorizations;</li><li>- <b>The French Office for Immigration and Integration</b> (Office français de l'immigration et de l'intégration = OFII), which supports companies and third country nationals during the procedure and ensures coordination between the different authorities involved.</li><li>- <b>Consulates,</b> which issue long stay visas and long stay visas serving as residence permits;</li><li>- <b>Prefectures,</b> which issue residence permits.</li></ul> <p>If a third country national wants to set up a business, <b>the paymaster general of the administrative department</b> is consulted by consulates or prefectures.</p> <p>2.1. Yes.</p> <p>2.2. Ex-post checks are conducted at the time of renewal of the residence permit.</p>
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			<p>2.3. The renewal of a residence permit for the purpose of employment or engagement in enterprise is generally conditioned by the conditions of initial issuance of the residence.</p> <p>For example, to ensure that a temporary residence permit is used in accordance with the terms of issuance and that such issuing is continuously reasoned, third country nationals who exercise a salaried occupation should generally submit to the French authorities:</p> <ul style="list-style-type: none"> <li>- certificate of presence in the position provided by the employer;</li> <li>- The last three pay slips (if these documents do not prove respect for the initially established compensation terms, the government may request the production of additional slips);</li> <li>- the most recent statement of social security contributions, and where applicable, contributions to the paid annual leave fund;</li> <li>- for cases set out in bilateral social security agreements, the certificate of secondment;</li> </ul> <p><u>Other conditions</u></p> <p>Once a year, the third country national who was granted the <b>“employee on assignment” residence permit</b> must demonstrate to the Prefecture that issued the temporary residence permit that the conditions for the issuance of this permit are still being met.</p> <p>If a third country national has been granted a <b>“skills and talents” residence permit</b>, renewal is subject to verification that the project has in fact been completed. If the interested party is continuing the same project, renewal will be granted.</p> <p>In the case of a <b>temporary residence permit for “commercial, industrial or craft occupation”</b>: If the third country national was allowed to set up a business or enterprise, renewal is subject to verification that the project has in fact been completed and that he/she has sufficient resources from his/her activity. If the third country national is taking part in an activity or an existing business, he/she has to prove that the resources he/she has earned have received a level equivalent to the minimum wage corresponding to a full time job and also that this activity is likely to procure the same level of resources over the coming months.</p>
	<p><b>Hungary</b></p>	<p align="center"><b>Yes</b></p>	<p>(1) The Hungarian general rules of temporary residence permit: In Hungary certificate of temporary residence is not issued for the purpose of employment.</p> <p>In Hungary a certificate of temporary residence shall be issued to any third-country national:</p> <ol style="list-style-type: none"> <li>a) who has filed an application for a residence permit, and whose long-term visa, national visa or previous residence permit has already expired before the permit is issued, or shall be granted residence permit in accordance with the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals, furthermore, if the applicants are third-country nationals by definition of specific other legislation, and if they apply for authority to reside specified in this Act following termination of their right of residence specified in specific other legislation,</li> <li>b) who has submitted an application for a long-term visa or interim permanent residence permit in the territory of Hungary;</li> <li>c) who remained in the territory of Hungary beyond the duration of lawful residence due to humanitarian reasons or reasons in</li> </ol>

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			<p>connection with his/her gainful employment, or for personal or some other unavoidable reasons beyond his/her control;</p> <p>d) who was born in the territory of Hungary and whose parent is a third-country national lawfully residing in the territory of Hungary, and whose lawful residence cannot be ensured by any other permit that may be granted under this Act;</p> <p>e) who is a victim of trafficking in human beings, if initiated by the victim support authority, for the duration of support;</p> <p>f) whose entry and stay shall be authorized only on humanitarian grounds, on grounds of national interest or because of international obligations, if he/she does not have any form of authorization to reside in the territory of Hungary;</p> <p>g) whose travel document had been confiscated, and he/she does not have any form of authorization to reside in Hungary;</p> <p>h) who is subject to any immigration related proceeding for unlawful entry and residence pending;</p> <p>i) who has applied for stateless status, for the duration of such proceedings, if he/she does not have any form of authorization to reside in Hungary;</p> <p>j) who is subject to an order of compulsory confinement</p> <p>k) who has applied for a residence permit for the purpose of highly qualified in the other EU member state and after the expiry of the validity of the EU Blue Card or withdrawal of the document has returned to Hungary for the duration of unemployment.</p> <p>The third-country nationals to whom a certificate of temporary residence had been granted under a) may engage in gainful employment if having submitted an application for a residence permit for the purpose of gainful employment in possession of a long-term visa or residence permit that was issued for the purpose of gainful employment.</p> <p>A certificate of temporary residence may not be extended, or it shall be withdrawn if any requirement for issue is no longer satisfied.</p> <p>A certificate of temporary residence constitutes the right of residence in Hungary, it may not be used for exit or reentry, it shall become void upon the third-country national's departure, when it shall be surrendered. The certificates surrendered shall be returned to the issuing authority.</p> <p>(2) Ex -post checks in general: The immigration authority shall have powers to control compliance with and enforce the provisions of this Act. Upon request for checks, third-country nationals shall produce and surrender their travel documents, authority to reside and other personal identification documents. In the event that any travel document is found in the possession of a third-country national that is issued to another person, and is held illegally by the third-country national, it shall be confiscated and – if no criminal charges are filed – sent to the Hungarian mission of the issuing State, or failing this, it shall be returned to the issuing agency via the minister in charge of foreign policies. Any third-country national who is unable to verify his/her lawful residence in Hungary or is unable to produce credible evidence of his/her identity, or who violates the provisions of this Act shall be apprehended and taken into custody by the immigration authority. If the grounds for residence of the third-country national or the identity of the third-country national mentioned above cannot be established while in custody, the third-country national may be kept in custody for an additional period of maximum twelve hours; this action may be contested.</p>
	<p><b>Latvia</b></p>	<p align="center"><b>Yes</b></p>	<p>1.1. Ex-ante checks in general: valid travel document, sufficient financial means, place of residence, criminal record in home country and Latvia (only for visa countries), tbc check, health insurance.</p> <p>1.1.1. A temporary residence permit for employment: normally there should be a vacancy registered in State Employment Agency which should be open for LV/EU/EEA citizens for 30 days. There are professions/occupations where a vacancy is not required, for example, teachers, truck drivers, IT specialists (managerial positions), sportsmen, sport coaches etc. In case if employment takes</p>

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			<p>place in the framework of enterprise agreement, vacancy is not required also. Salary – average salary in the country. Qualification of foreigner has been checked as well.</p> <p>1.1.2. A temporary residence permit of self-employed activities: board and council members of enterprises – can obtain a residence permit not earlier than after 1 year since the enterprise has been registered in the Commercial Register. Salary – double average salary in the country. If a person has invested at least 27 000 EUR in the capital of enterprise (small enterprise), there is no one year “waiting period” before s/he can apply for a residence permit. If a person wants to invest in a bigger enterprise, the investment should be at least 140 000 EUR. In those cases a person should not necessarily be a council or board member, s/he can be just owner of some shares in the amount mentioned above.</p> <p>1.1.3. During the application procedure we use several national information registers (commercial register, land register, Border Guard entry-exit register, register of population etc.) Security services carry out additional checks if an applicant comes from a country with increased risk of terrorism.</p> <p>2. Ex-post checks.</p> <p>2.1. Yes. Ex-post checks are mostly carried out during the registration procedure of a residence permit (a temporary residence permit should be registered once a year).</p> <p>2.2. Employed persons. Immigration Office checks if all taxes have been paid. For example, if there was a declaration that this particular worker will be paid 1000 EUR monthly, then, in case if taxes from this amount have not been paid, the employer can be forbidden to invite other employees on the ground that s/he has violated norms related to employment of foreigners.</p> <p>2.3. Self-employed persons. Immigration Office checks if all taxes have been paid. Not only salary taxes, but any taxes an enterprise should pay (income tax, VAT, property taxes etc). If the enterprise has not paid all taxes OR if an amount it has paid is lower than it is stated in the legislative acts (concerning immigration), the residence permit will be revoked. In other words – an enterprise should carry out active commercial activities, otherwise the residence permit for board members will not be issued. For self-employed persons (individual commersants) a business plan is required and they should pay certain amount of taxes as well. There is a requirement on minimum number of employees that should be employed in enterprise, but this criteria will be abolished from 1<sup>st</sup> July 2012 as it has turned out too restrictive and very hard to check.</p> <p>2.3. Immigration Office cannot use information systems of State Revenue Service however a co-operation agreement has been concluded between both institutions and data on taxes can be obtained electronically within 2-3 working days.</p>
	<p><b>Lithuania</b></p>	<p align="center"><b>Yes</b></p>	<p>1. Ex-ante checks concluded in the processing of a temporary residence permit</p> <p>1.1. Residence permits are issued for reasons stipulated in the Law (e.g. family, work, study, engagement in economic activity) and only if a TCN fulfills indicated requirements: meets conditions of entry set in the Schengen Border Code, has health insurance coverage, adequate means of subsistence (currently at least 800 LTL per month), has a place to stay in Lithuania.</p> <p>1.1.1. A the temporary residence permit for purposes of work may be issued only if a TCN already has a work permit (issued by the Lithuanian Labor Exchange) unless s(he)wants to engage in activities for which no work permit is required. Work permit is issued only after an employer has advertised the vacancy at the Labor Exchange and no qualified national or EU national has been found within one month. Labor Exchange Office also checks whether TNC worker has required education and professional qualification (needs to have at least 2 years of experience in the profession) and the conditions of employment (salary level must be at least equal or higher to salary level of</p>

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			<p>local employees working in the same position).</p> <p>1.1.2. A temporary residence permit may be issued for TCN who registers, as an owner, an enterprise, agency or organisation in Lithuania, is the head of it and if the principal goal of his/her entry is work at the enterprise. In this case TCN does not need a work permit. The TCN needs to provide regulations of the enterprise, documents confirming that s(he) is owner of that enterprise. A TCN can also obtain a residence permit if s/he is only an owner of a company (without being the head manager), but in that case a work permit is not required only if the nominal capital value of the company is not less than 50 000 LTL.</p> <p>A temporary residence permit may also be issued to TCN who is an (co-)owner of an enterprise, his/her nominal capital value is no less than 50.000 LTL and his/her stay in the Lithuania is necessary seeking to attain the aims of the enterprise. A top manager of the company (other than the owner) can also obtain a residence permit, if his/her main reason of being in Lithuania is connected to the activities of the company.</p> <p>1.2. For TCNs who come to work and need a work permit: Lithuanian Labour Exchange checks the education and qualification for TCNs. In cases of family reunification, the spouses may be questioned in order to assess whether the marriage is genuine.</p> <p>1.3. Other authorities, apart from the Migration department under the Ministry of the Interior and the migration services (belonging to the Police department under the Ministry of the Interior), are Lithuanian Labour Exchange (responsible for work permits); State security department and Police department under MoI which assess whether a TCN doesn't pose threat to the public order or national security;</p> <p>2. Yes.</p> <p>2.1. Yes. Usually ex-post checks are conducted in order to assess whether companies which employ TCNs comply with the employment rules; whether companies established by TCNs conduct real economic activities; whether marriages concluded by TCNs are not fictitious; whether TCNs actually reside in Lithuania.</p> <p>2.2. When TCNs apply to extend their residence permits, a usual procedure is followed (TCNs must prove that they still meet the requirements to possess residence permits).If there are doubts that TCN may be abusing residence permit rules, an investigation in place is undertaken.</p> <p>2.3. Interviews, visits, cooperation with other involved authorities (e.g. state border guards, tax inspectorate; state social insurance fund).</p>
	<p><b>Luxembourg</b></p>	<p align="center"><b>Yes</b></p>	<p>In Luxembourg the procedure for granting a residence permit to a third country national as salaried worker is different from the one of an independent worker.</p> <p>1. Ex-ante-check:</p> <p>1.1. Conditions for a residence permit as salaried worker</p> <p>1.1.1. In order to obtain the authorization to stay as salaried worker in Luxembourg, the third-country national must meet the five following conditions :</p>

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			<p>a. the worker must meet with, like all other third-country nationals, the general regulations of article 34, paragraph (2) of the law of August 29th 2008 on the free movement of persons and on immigration ;</p> <p>b. he must not prejudice the hiring priority from which certain workers benefit in virtue of the community or national dispositions;</p> <p>c. the practice of the intended activity serves the economic interests of Luxembourg;</p> <p>d. the person seeking authorization disposes of the required professional qualifications for the practice of the intended activity;</p> <p>e. the person seeing authorization possesses a work contract for a job opening declared vacant to the ADEM in the forms and conditions foreseen by the afferent current legislation.</p> <p>The application for the authorization to stay has to be addressed to the Ministry of Immigration before his entry on the territory. The demand must contain :</p> <ul style="list-style-type: none"><li>- The identity of the applicant;</li><li>- A complete copy of the applicant's passport that must be certify against the original;</li><li>- The birth certificate;</li><li>- The criminal record or an affidavit;</li><li>- A curriculum vitae;</li><li>- A certified copy of the diplomas or of the professional qualifications of the applicant, with the translation in French, German or English if the original documents are not issued in theses languages</li><li>- A labour contract, dated and signed by both parties;</li><li>- The applicant must indicates if there any family ties with the employer</li><li>- A motivation letter that will support the application</li></ul> <p>The necessary conditions are verified respectively by the ADEM and by the consultative commission for workers (CCTS following the modalities determined by the grand-ducal regulations). The minister in charge of immigration requests, first of all, the opinion of the ADEM, who must reply within three weeks. After receiving the opinion or at the expiration of the delay, the Ministry will demand the position of the consultative commission of workers (CCTS). The commission will give the respective opinion to the minister and then the Minister takes the final decision on the authorization to stay as salaried worker</p> <p>It the authorization to stay is granted, the third country national has a deadlin of 90 days to enter in the territory or to apply for the applicable D-visa (if he/she is required to have one).</p> <p>The third-country national who received an authorization to stay as a salaried worker, who had entered legally in the territory of the Grand-Duchy of Luxembourg, who can give the proof that he has appropriate housing and a medical certificate may be granted a "salaried worker" residence document (titre de séjour).</p> <p>The first residence document is valid for one year maximum and for one sector and one profession only. For the first renewal, the residence document is extended for two additional years if the worker has a work contract for a job position declared vacant with the ADEM. From the second renewal on, the residence document, valid for three years, can be used for all professions in all sectors.</p> <p>1.1.2. Conditions for a residence permit as independent worker</p> <p>The application for the authorization to stay has to be addressed to the Ministry of Immigration before his entry on the territory.</p>
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			<p>A residence document for independent activity may be granted to a third-country national who wishes to exercise a non-salaried profession in Luxembourg.</p> <p>Procedure: The applicant must fulfill the same professional qualifications and integrity criteria that any EU citizens. He has to prove that he has the required qualifications to practice the activity he wants to develop. The applicant must prove that he has adequate resources so as to be able to practice this activity and that the activity serves the interests of the country. Also the applicant has to prove that he has adequate living facilities. Once the examiner considers that the application is completed the Ministry will ask the opinion of the Consultative Commission of Independent Workers (CCTI). The residence document is granted for three years, renewable upon request for the same length of time.</p> <p>1.1.3 Transferred workers A transfer authorization permit may be granted, upon request from the host company, to a third-country national worker who is temporarily transferred to the Grand-Duchy of Luxembourg, within the framework of a transfer between companies belonging to a social or economic entity. Procedure: In order to do this, the host company must submit a request to the minister, explaining the position and work the worker will accomplish and the duration of the transfer. In order for the transfer authorization permit to be approved, the worker must be engaged through an open ended work contract to the sending company who is doing the transfer. The “transferred salaried worker” transfer authorization permit is valid for one year maximum. This document is renewable, upon request, for the same period of validity as long as the conditions of qualification are met.(art. 47(1) of the Law of 29 August 2008 on free movement of persons and immigration) This document does not allow the holder to obtain a residence permit (art. 47 (5)).</p> <p>1.2. The examiner can demand any other document or complementary information that he considers necessary for its investigation. For example, he/she can interview the members of the company or the employer to verify the authenticity of the documents.</p> <p>1.3. The employees of the Directorate of Immigration, there are also involved the people from the consulate from the countries of the third-country nationals who are subject to visa requirements, which in most of the cases work for diplomatic representations of other MS (Belgium, France, The Netherlands, Germany, Spain and Portugal).</p> <p>2. Ex-poste check: 2.1 Yes 2.2 The authorities of the Directorate of Immigration have the right to conduct any check and can proceed to make controls to verify if the residence permit is used to its original purpose at any time. The Labour and Mines Inspectorate is charged to enforce the conditions related to the autorisation of stay of a salaried worker or the work permit of foreigners and make controls in accordance with the Minister’s instructions. The ex-post checks can be ordered by the Directorate of Immigration when it comes to its attention that the third-country nationals is not respecting the terms of his/her residence permit. This can be because of random verification or</p>
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			<p>by notice of a third party.          However this control is more often used when they have to renew the residence permit. Here the authorities will verify if the employee has continued working for the same company or he has changed activity. In this last case the permit will not be renewed and the third-country national must apply again. In the case of the salaried worker, the Minister may consult the CCTS in case of renewal application when he considers that the original conditions of the authorization of stay are not fulfilled or in the case that the applicant has change of economic sector.</p> <p>2.3 The authorities of the Directorate of Immigration, of the Inspectorate of Labour and Mines or the Grand-Ducal police can interview the employer, the working colleagues and any person that has information for verifying if the person has not respect the terms of the residence permit.</p>
	<p><b>Netherlands</b></p>	<p align="center"><b>Yes</b></p>	<p>1. Ex-ante checks conducted in the processing of a temporary residence permit:          1.1 Every third national must meet the following conditions:</p> <ul style="list-style-type: none"> <li>• He/she must have a valid passport</li> <li>• He/she must have health insurance with cover in the Netherlands</li> <li>• He/she must not constitute a risk to public order</li> <li>• He/she must not have tuberculosis</li> <li>• He/she must have health insurance with cover in the Netherlands</li> <li>• He/she must have <a href="#">sufficient funds</a></li> </ul> <p>1.1.1 In the case of most third nationals who want to work in the Netherlands, the employer must apply for a work permit at the the Ministry of Social Affairs and Employment . The employer only gets the work permit when nobody in the Netherlands and the European Union (excluding Romania and Bulgaria) is available to fill the position.          There are situations when the employer does not have to apply for a work permit. The employer does not have to apply of the work permit when the third national has a valid Dutch residence permit or a stamp from the Aliens Police or the IND which states: ‘Arbeid vrij toegestaan, TWV niet vereist’ (Free to work, no work permit needed).</p> <p>1.1.2 A residence permit for the purpose of self-employed worker van be granted if the third national also meets the following conditions:</p> <ul style="list-style-type: none"> <li>• He/she must meet the requirements for practising your profession</li> <li>• with his/her business activities he/she must be serving a material Dutch economic purpose.</li> </ul> <p>Whether his/her business activities serve a material Dutch purpose will be assessed on the basis of a scoring system.</p> <p>The scoring system consists of three parts:</p> <ul style="list-style-type: none"> <li>• a) Personal experience (education, experience as a self-employed person, working experience);</li> <li>• b) Business plan (market analysis, product/service, price, organisation, financing);</li> <li>• c) Material economic purpose for the Netherlands (innovative, job creation, investments).</li> </ul>

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			<p>It is possible to score a maximum of 300 points for all parts combined. He/she at least need 90 points with a minimum of 30 points per part.</p> <p>1.1.3 Yes. A work permit will be issued by the Ministry of Social Affairs and Employment. The Ministry of Economic affairs, Agriculture and Innovation advises the IND in case the third national wants to work on a self-employment basis.</p> <p>2. Ex-post checks conducted in regards to a temporary residence permit:</p> <p>2.1 yes</p> <p>2.2 The IND checks whether a foreign national and/or a sponsor fulfils and continues to fulfill all the conditions. If it is established that this is not, or no longer, the case, there may be far-reaching consequences. This is certainly the case in the case of fraud. Some examples of fraud are the submission of false or forged identity papers, the submission of false or forged contracts of employment or salary specifications, not presenting the situation truthfully together with another party, such as an employer.</p> <p>If the IND ascertains that a foreign national or sponsor does not fulfill the conditions any longer, the IND can take the following measures:</p> <ul style="list-style-type: none"> <li>• It can retract a residence permit that has already been granted.</li> <li>• It can reverse a granting of Dutch citizenship.</li> <li>• The IND will report the matter to the police or other investigation authorities if it has been established that a criminal offence has been committed, such as fraud, forgery, posing as someone else, etc.</li> </ul> <p>2.3 the following methods are used for conduction ex-post checks:</p> <ul style="list-style-type: none"> <li>• Prevention by providing education</li> <li>• Signaling and risk analysis</li> <li>• Prosecution of a person of legal action for the settlement of an administrative dispute</li> <li>• Repressive audit.</li> </ul>
	<p><b>Romania</b></p>	<p align="center"><b>Yes</b></p>	<p><b>1. Ex-ante checks conducted in the processing of a temporary residence permit:</b></p> <p><b>1.1. Based on what conditions is it possible to apply for a residence permit:</b></p> <p>The temporary stay right may be extended for the aliens who entered Romania based on a long stay visa or are exempted of the visa regime.</p> <p><b>1.1.1. For a third-country national for the purpose of employment?</b></p> <p>The alien who entered Romania for employment purpose, owning a valid work authorization for permanent workers, seasonal workers, trainee workers, athletes, nominal, for cross-border workers or for highly skilled workers may have his/her temporary stay right extended if they show the following documents:</p> <ul style="list-style-type: none"> <li>- The individual full time work contract, advised by the territorial labour inspectorate that shows that the salary is at the level of the average gross salary on economy. In case of highly skilled workers the salary must be at least 4 times higher than the average gross salary on economy</li> <li>- The medical certificate attesting his/her health showing he/she is apt to be employed</li> </ul>

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			<p><b>1.1.2. For a third-country national for the purpose of engagement in enterprise?</b>  The alien who entered Romania for the purpose of carrying out commercial activities may have his/her temporary stay right extended if:</p> <ul style="list-style-type: none"> <li>- He/she has the written notification issued by the Romanian Centre for Promoting Trade and Foreign Investments</li> <li>- He/she legally owns the space for the office</li> <li>- He/she is a shareholder or associate of the company with leadership or management responsibilities</li> <li>- He/she owns means of support of at least 700 euros a month, if a shareholder, and 500 euros a month, if associate</li> </ul> <p>The subsequent extensions of the stay right may be granted if the alien fulfils the following conditions:</p> <ul style="list-style-type: none"> <li>- The activity of the company is conducted in accordance with the business plan</li> <li>- The object of activity is the initial one or a continuation or a result of it</li> <li>- He/she legally owns the space for the office</li> <li>- He/she is a shareholder or associate of the company with leadership or management responsibilities</li> <li>- Investment is materialized in capital or technology contribution worthing 70.000 euros, if shareholder, or 50.000 euros, if associate and in creation of at least 15 jobs, if shareholder, or 10 jobs, if associate</li> <li>- He/she owns means of support of at least 700 euros a month, if a shareholder, and 500 euros a month, if associate</li> </ul> <p><b>1.2. What kind of additional checks are conducted in order to ensure that the application for a temporary residence permit for the purpose of either employment or engagement in enterprise is used accordingly and is reasoned?</b>  In case of doubts regarding the applications additional checks may be conducted at the offices of the employer/company, place of residence etc.</p> <p><b>1.3. Are there any other authorities involved in the processing of a temporary residence permit applications besides the main authority? If yes, then which authorities and for what purpose?</b>  Other authorities are not really involved in processing the applications, but they must produce documents to sustain the application: Romanian Centre for Promoting Trade and Foreign Investments and territorial labour inspectorates</p> <p><b>2. Ex-post checks conducted in regards to a temporary residence permit:</b></p> <p><b>2.1. Are there any ex-post checks conducted in relation to a third-country nationals who has received a temporary residence permit to ensure that the temporary residence permit is used in accordance with the terms of issuance and that such issuing is continuously reasoned?</b>  Ex-post checks may be conducted at the offices of the employer/company, place of residence etc. to ensure that the temporary residence permit is used in accordance with the terms of issuance and that such issuing is continuously reasoned</p> <p><b>2.2. In which cases are third-country nationals placed under ex-post checks?</b>  There are no specific rules regarding placement under ex-post checks.</p> <p><b>2.3. What methods are used for conducting ex-post checks?</b>  On spot controls at the offices of the employer/company, places of residence, interviews</p>
	<b>Slovak Republic</b>	<p align="center"><b>Yes</b></p>	<p>1. Ex-ante checks conducted in the processing of a temporary residence permit:</p> <p>1.1. Based on what conditions is it possible to apply for a residence permit:</p> <p>1.1.1. A third country national who plans to work or do business in Slovakia may be granted a permit for a temporary residence provided that he/she meets the relevant legal conditions. Temporary residence is always tied to a particular purpose. Documents required for the temporary residence application include filled in form of the application, valid</p>

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			<p>passport, documents confirming the purpose of the residence, documents regarding clear criminal registry, documents on accommodation, documents proving sufficient finances and documents proving sufficient finances for doing business (only permit for the purpose of business). All documents submitted with the application must not be older than 90 days.</p> <p>1.1.2. A third country national can prove the purpose of his/her temporary residence by the work permit or confirmation letter from the employer stating that the foreign national will perform work for which a work permit is not required or by the copy of an international treaty according to which a foreign national is not required to have a work permit in order to work in the territory of the Slovak Republic.</p> <p>1.2. The police department will issue its decision within 90 days from the date of submission of the application. In the decision process a police department considers public interest and security risk and cooperates with a diplomatic mission and other state institutions.</p> <p>1.3. Yes. In case of the application for temporary residence permit for the purpose of business the police department cooperates with the Department for Self-Employment of the Municipal Office. In case of the application for temporary residence permit for the purpose of employment the police department cooperates with the Office of Labour, Social Affairs and Family and with the foreigner's employer.</p> <p>2. Ex-post checks conducted in regards to a temporary residence permit:</p> <p>2.1. Yes.</p> <p>2.2. The police department can carry out the control over the residence legitimacy, control over the residence conditions' fulfillment and control over the fulfilment of the third country national's obligations according to the Act on Stay of Aliens. Checks concerning the stay of a foreigner are carried out during the entire period of his/her residence continuously or on an ad-hoc basis.</p> <p>2.3. The police officer is entitled to enter into business, employment and accommodation premises unless the inviolability of such premise is secured through a special regulation. The foreigner police officer can also ask the foreigner to prove his/her identity and explain the matters brought under the control.</p>
	<p><b>Sweden</b></p>	<p align="center"><b>Yes</b></p>	<p>1.1.1 The worker must show that he or she is able to support himself on the salary and the employer must offer pay, insurance cover and other terms of employment which are no worse than the terms that follows from Swedish collective agreements or practice within the profession or sector. The employer also must show that he or she has advertised the job in Sweden and EU.</p> <p>1.1.2 The applicant must show that the business is expected to achieve satisfactory profits and that he/she can support himself/herself and the family. Bank statements must show necessary capital to establish or buy a business and a detailed accounting of business plans must be provided.(business plans, market study, contract with presumptive customers, investment budget etc.).</p> <p>1.2 Concerning employees the relevant union must be given the opportunity to express an opinion on the terms the employer is offering.</p> <p>1.3 No other authorities are involved.</p> <p>2.1 There are no ex-post checks conducted during the validity period of the residence and work permit unless there are reasons to suspect that the terms and conditions are not fulfilled. However, If the employee applies for an extension he or she must present a statement of income and payslips so the competent authority (the Migration Board) can investigate that the terms concerning salary and insurances has been fulfilled by the employer. Except the documentation presented by the employee the Migration Board also can contact other authorities, for example the Taxation Office to make inquiries concerning the employee or the employer.</p> <p>2.2 See the answer under 2.1</p>

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			2.3 See the answer under 2.1
	United Kingdom	Yes	<p><b>I. Ex-ante checks conducted in the processing of a temporary residence permit</b></p> <p>UK visas and residence permits demonstrate the entitlement of holders to enter and reside in the UK for a specific purpose and length of time. They are issued by the UK Border Agency overseas and in the UK.</p> <p>The main route to the UK for work and study purposes is the points-based system (the PBS). Issuing of visas under the PBS takes into account migrants' personal characteristics, salary and skill-level required for a job. The PBS comprises five Tiers.</p> <p><b>Tier 1 visas – high value migrants</b></p> <p>There are five categories under this Tier.</p> <p><b>Exceptional talent</b> – for people who are recognised or have the potential to be recognised as leaders in the fields of science and the arts. Every initial application must be endorsed by a 'designated competent body' (the Arts Council England – for arts and culture applications; The British Academy – for humanities and social science applications; The Royal Society - for natural sciences and medical science research applications; and The Royal Academy of Engineering – for engineering applications.)</p> <p>Exceptional talent migrants have no recourse to public funds (which means the migrant will not be able to claim most benefits paid by the state).</p> <p>Tier 1 (Exceptional talent) is subject to an annual limit. For 2011/2012, the limit is 1,000 issued visas.</p> <p><b>Investor</b> – for high net worth individuals making a substantial financial investment in the UK. They might not seek work nor are they under any obligation to do so. The applicant is assessed according to their ability to invest £1,000,000 in the UK. The applicant must:</p> <ul style="list-style-type: none"> <li>• have money of his own, under his control, held in a regulated financial institution and disposable in the United Kingdom amounting to no less than £1 million. OR</li> <li>• must own personal assets which taking into account any liabilities to which they are subject, have a value in excess of £2 million and have money under his control held in a regulated financial institution and disposable in the United Kingdom amounting to no less than £1 million which has been loaned to him by a UK regulated financial institution.</li> </ul> <p>Investors have no recourse to public funds (which means the migrant will not be able to claim most benefits paid by the state).</p> <p><b>Entrepreneur</b> – for those wishing to invest in the UK by setting up or taking over, and being actively involved in the running of a business. The applicant must:</p> <ul style="list-style-type: none"> <li>• have access to not less than £200,000, or</li> <li>• have access to not less than £50,000 from:             <ol style="list-style-type: none"> <li>I. one or more registered venture capital firms regulated by the Financial Services Authority;</li> <li>II. one or more UK entrepreneurial seed funding competitions which is listed as endorsed on the UK Trade &amp; Investment website; or</li> <li>III. one or more UK Government Departments, and made available by the Department(s) for the specific purpose of establishing or</li> </ol> </li> </ul>

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			<p>expanding a UK business.</p> <p>The money must be held in one or more regulated financial institutions and the money must be disposable in the United Kingdom</p> <p><b>Post-study work</b> – for people who want to work in the UK after recently graduating from a UK university. This route will close from April 2012. There will be replacement provisions for Graduate Entrepreneurs and graduates wishing to take up skilled employment under Tier 2.</p> <p><b>General</b> (highly skilled workers) – for people who wish to obtain highly skilled employment in the UK. This route has been closed since 6 April 2011 other than for extension applications.</p> <p><b>Tier 2 visas – skilled workers with a job offer.</b></p> <p>There are four categories.</p> <p><b>General</b> – for people coming to the UK with a job offer to fill a post that cannot be filled from within the resident labour force. This category includes applicants coming to fill shortage occupations as specified on the Shortage Occupation List (see : <a href="http://www.ukba.homeoffice.gov.uk/business-sponsors/points/sponsoringmigrants/employingmigrants/shortageoccupationlist/">http://www.ukba.homeoffice.gov.uk/business-sponsors/points/sponsoringmigrants/employingmigrants/shortageoccupationlist/</a>) and other skilled vacancies which have passed the Resident Labour Market Test (RLMT) (a process to show that no suitably qualified settled worker can fill the job. Details here: <a href="http://www.ukba.homeoffice.gov.uk/business-sponsors/points/sponsoringmigrants/employingmigrants/residentlabourmarkettest/">http://www.ukba.homeoffice.gov.uk/business-sponsors/points/sponsoringmigrants/employingmigrants/residentlabourmarkettest/</a>).</p> <p>The jobs migrants fill through Tier 2 General must be offered on the same terms as the resident labour force, ensuring that the UK and EU labour market is not undermined and that migrants are not exploited.</p> <p>Tier 2 (General) is subject to an annual limit. For 2011/2012, the limit is 20,700 issued visas, excluding in-country applications and jobs paying £150,000 or above. Tier 2 places in the limit are only available to workers with an offer of a graduate-level job and at least intermediate-level English.</p> <p><b>Intra-company transfer (ICT)</b> – for employees of multi-national companies who are being transferred by an overseas employer to a skilled job in a UK-based branch of the company. For ICTs there is a requirement for workers to have 12 months experience with their employer and a limit on the length of time workers can stay in the UK. This is 12 months for those paid between £24,000 and £40,000 a year and three years for those earning more than £40,000, with the possibility of extending for further two years. There are also sub-categories of ICTs for graduate trainees and skills transfers.</p> <p><b>Sportsperson</b> – for elite sportspeople and coaches whose employment will make a significant contribution to the development of their sport at the highest level.</p> <p><b>Minister of religion</b> – for those people coming to fill a vacancy as a minister of religion, missionary, or member of a religious order.</p> <p><b>Tier 3 visas – low skilled workers.</b></p> <p>This Tier is currently suspended as there is sufficient low skilled labour available from within the EEA.</p>
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			<p><b>Tier 4 visas – students.</b></p> <p>This is for students sponsored to study a course at an approved education provider.</p> <p><b>Tier 5 visas – temporary workers and Youth Mobility.</b></p> <p>Tier 5 is designed to provide a route to cover primarily non-economic migration routes, and to honour a variety of international agreements of which the UK is signatory<sup>2</sup>. Details are available on UK Border Agency Website (<a href="http://www.ukba.homeoffice.gov.uk">http://www.ukba.homeoffice.gov.uk</a>).</p> <p>There are six categories: Creative and sporting; Charity worker; Religious worker; Government Authorised Exchange; International agreement; and Youth Mobility Scheme.</p> <p><b>Points-Based System sponsors</b></p> <p>All PBS applicants, except for those entering under Tier 1, require a sponsor prior to arriving in the UK and must obtain a Certificate of Sponsorship (COS) (Tiers 2 and 5) or a Confirmation of Acceptance for Study (CAS) (Tier 4) from a sponsor licensed by the UK Border Agency.</p> <p><b>Other non-PBS work routes</b></p> <p>Other, less frequently used, work routes (e.g. Turkish ECAA route) facilitate the entry of third country nationals to the UK for purposes of work and have specific requirements, outlined on the UK Border Agency website.</p> <p><b>Applying for a visa</b></p> <p>Visa applications should be accompanied by original (translated) supporting documents (or certified copies) on official letter-headed paper or stationery, to demonstrate the applicant meets the requirements of the Immigration Rules and supported by a sponsor licensed by the UK Border Agency and accompanied by a Certificate of Sponsorship (for applications under PBS Tiers 2 and 5) or Confirmation of Acceptance for Study (for applications under PBS Tier 4).</p> <p>Applicants, save for those benefiting from a limited number of exemptions and exceptions, are required to provide biometric data (a 10-digit finger scan and a digital photograph) as part of the application process<sup>3</sup>. The main exemptions are for those aged less than five years of age, certain diplomats and government officials.</p> <p>In most cases, Entry Clearance Officers (ECOs) make a decision based on the documents that are submitted with the visa application, immigration history and on the basis of background checks. If an ECO cannot make an immediate decision the applicant may be asked to attend an interview. This is done within 15 working days from the date the ECO assessed the application.</p> <p>ECOs:</p> <ul style="list-style-type: none"><li>• may verify the information contained in submitted documents by contacting the issuing authority;</li></ul>
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<sup>2</sup> These agreements include the General Agreement on Trade in Services (GATS) as well as agreements referring to employees of overseas governments and international organisations and private servants in diplomatic households.

<sup>3</sup> Under the provision of the Immigration (Provision of Physical Data) Regulation 2006 which came into force on 4 July 2006.

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			<ul style="list-style-type: none"><li>• check that the annual limit (for categories subject to this) has not been reached; and</li><li>• check that each applicant meets the entry requirements for the visa applied for as set out in the Immigration Rules, e.g. whether the applicant has the required number of points under PBS or has a valid COS or CAS.</li></ul> <p>ECOs are trained to spot false documents. Applicants who submit false documents, lie or withhold relevant information will be automatically refused and will automatically have future applications refused for 10 years.</p> <p>Anyone owing the National Health Service £1,000 or more will not normally be granted permission to return to the UK until the debt is paid.</p> <p><b>2. Ex-post checks conducted in regards to a visa or residence permit</b></p> <p><b>Examination on entry to the UK</b></p> <p>The following checks are carried out on all passengers, regardless of nationality.</p> <ul style="list-style-type: none"><li>• Checking personal details against a central information system, which alerts the Border Force Officer (BFO) if the passenger is perceived as a security threat or has any adverse immigration history (such as overstaying, working illegally, or being refused entry in the past).</li><li>• Checking documents by eye, to establish that the passenger is the rightful holder and not travelling on a passport belonging to another person, or one that has been issued by a country other than the passenger's own.</li><li>• Checking documents have not been forged or tampered with.</li></ul> <p>The following checks may be also be undertaken on non-EEA passengers.</p> <ul style="list-style-type: none"><li>• Asking passengers about various issues, including their reasons for seeking entry to the UK and their personal circumstances.</li><li>• Checking landing cards and other documents (e.g. evidence of their reason for coming to the UK, letters from sponsor or businesses they are visiting, schools they will study at and other documents that they presented with their visa application).</li></ul> <p>For visa and biometric residence permit (see below) holders, the following additional checks are carried out.</p> <ul style="list-style-type: none"><li>• Checking the visa or biometric residence permit is genuine, was not obtained through deception, the circumstances of the passenger still apply, or the purpose for which the visa was granted has changed. This would be grounds to refuse entry.</li><li>• Checking biometrics of the passenger (two fingerprint scans) with those held against their visa or biometric residence permit application.</li></ul> <p>Some additional checks are conducted before the passenger arrives at the UK border.</p> <ul style="list-style-type: none"><li>• Carriers check passengers' travel documents and visas prior to travel. Penalties are given to carriers who bring passengers to the UK who do not hold a valid passport and, if required, a visa. Carriers (or their agents) may be required to remove inadequately</li></ul>
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			<p>documented arrivals that travelled to the UK on their carrier, and are refused leave to enter at the UK border. The cost of removal will normally fall on the carrier.</p> <ul style="list-style-type: none"><li>• TDI and OPI<sup>4</sup> are checked through e-Borders against watchlists and targeting rules, and details of passengers who merit further scrutiny are provided to UK Border Agency staff and Police officers.</li></ul> <p>A BFO can hold a passenger for further questioning should they have any concerns, can institute a baggage search, or undertake a full case investigation.</p> <p>Travellers to the UK who produce a false travel document or passport to the UK immigration authorities for themselves and/or their children are committing an offence and can face up to two years in prison or a fine (or both).</p> <p><b>Checks in-country</b></p> <p><b>Visa extensions</b></p> <p>A migrant may in some circumstances apply to extend their leave. Any application to extend leave should be submitted before the existing leave expires. The applicant's existing immigration status continues until the application is decided, even if the decision is not made until after the end of the applicant's leave expires. Migrants may also in some circumstances extend their stay in the UK by 'switching' into a different immigration status. Eligible migrants must normally meet the initial entry requirements for the new visa category.</p> <p>Biometric residence permits are issued to non-EEA nationals extending their stay in the UK for more than six months. These are applied for in line with the immigration application<sup>5</sup> and require the applicant to provide fingerprints and facial image as an integral part of the process. This enables the agency to check against the immigration and police fingerprint databases to verify they are consistent with any overseas application or whether they reveal an adverse history which the applicant may have sought to conceal.</p> <p><b>PBS sponsors</b></p> <p>All PBS applicants, except for those entering under Tier 1, require a sponsor prior to arriving in the UK and must obtain a Certificate of Sponsorship (COS) (Tiers 2 and 5) or a Confirmation of Acceptance for Study (CAS) (Tier 4) from a sponsor licensed by the UK Border Agency.</p> <p>The sponsor will be an organisation in the UK that wishes to employ or provide education to a migrant. Sponsors must be registered with the UK Border Agency and must be a legitimate organisation, working within the law of the UK. Sponsors must have good human resource systems in place to monitor and keep records of the migrants they employ or who are studying at their institution and must report anyone who ceases to attend for work or study. UK Border Agency undertakes inspections of sponsors.</p> <p>Sponsoring employers must ensure that a migrant worker is legally allowed to do the job and has the right registration or professional accreditation where needed by law. They must also keep a copy of the registration document or certificate and make it available to the UK Border Agency on demand. If a migrant worker has a time limit on their stay in the UK, the employer must check their documents at least once every 12 months to ensure that they continue to be eligible to work in the UK.</p>
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<sup>4</sup> Called, respectively, Advance Passenger Information and Passenger Name Records in European Union acquis.

<sup>5</sup> Under the Immigration (Biometric Registration) Regulations 2008, as amended

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			<p>Failure to follow correct procedures may result in the loss of their right to sponsorship and, in certain circumstances, employers/education providers may also face criminal action and fines. If an employer is found to be illegally employing a migrant worker, they may face civil or criminal sanctions. Civil Penalties can be issued on a sliding scale up to the value of £10,000 per illegal worker.</p> <p><b>Biometrics</b></p> <p>Biometric data helps the UK Border Agency to improve identification and screening of people overseas, at the border and in country. It helps the agency to identify migrants in the UK that are not entitled to remain in the UK, as we increasingly fix records of migrants to their unique biometric data and use this to reduce immigration abuse through identity swapping. Mobile fingerprint scanners are used as the most effective method of identifying irregular migrants using biometric information. UK Border Agency enforcement staff are trained to operate the hand-held scanners, which are frequently used in UK Border Agency operations across the UK.</p> <p>The roll out of Biometric Residence Permits (BRPs) has benefits for employers. BRPs clearly show the immigration status of the holder and their entitlement to work making it easier for employers to verify who is eligible to work for them.</p> <p>The UK Border Agency helps employers to ensure that they only employ migrants that are entitled to work through guidance on the UK Border Agency website and the BRP verification telephone service<sup>6</sup>. From Spring 2012 a new online checking service will be launched which will provide quick and easy real time checks on BRPs.</p>
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<sup>6</sup> <http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/checking-brp/>