# Visa Policy as Migration Channel

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This Synthesis Report summarises the main findings of the National Reports for the EMN Study on *Visa Policy as Migration Channel* undertaken by EMN National Contact Points from 21 Member States (**Austria**, **Belgium**, **Bulgaria**, **Estonia**, **Finland**, **France**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Malta**, **Netherlands**, **Poland**, **Slovak Republic**, **Slovenia**, **Sweden**, **United Kingdom**).

The overall purpose of this study was to analyse the possible nexus between visa policy and migration management, examining the effects of visa policy on the management of migration, both in terms of facilitating legal migration and preventing irregular migration. The study covers the period from 2004 up to 2011 with statistics provided up to the end of 2010.

The Synthesis Report, as well as the National Reports upon which this synthesis is based, are available from http://www.emn.europa.eu under "EMN Studies." Several of the National Reports are available in the Member States' national language, as well as in English.

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**Disclaimer**

This Synthesis Report has been produced by the European Migration Network (EMN), which comprises the European Commission assisted by its service provider (ICF GHK-COWI) and EMN National Contact Points (EMN NCPs). This report does not necessarily reflect the opinions and views of the European Commission, its Service Provider (ICF GHK-COWI) or the EMN NCPs, nor are they bound by its conclusions. Similarly, the European Commission, ICF GHK-COWI and the EMN NCPs are in no way responsible for any use made of the information provided.

**Explanatory Note**

The 21 EMN National Contact Points who participated in this activity were from **Austria**, **Belgium**, **Bulgaria**, **Estonia**, **Finland**, **France**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Malta**, **Netherlands**, **Poland**, **Slovak Republic**, **Slovenia**, **Sweden** and **United Kingdom.**[1]

It is important to note that the comments of this Report refer to the situation in the above-mentioned Member States up to and including 2011[2] and specifically the contributions from their EMN National Contact Points. More detailed information on the topics addressed here may be found in the available National Reports and one is strongly recommended to consult them also.

The Member States mentioned above are given in **bold** when mentioned in the Report, and when reference to "Member States" is made the reference is to these Member States only.

EMN NCPs from other Member States could not, for various reasons, participate on this occasion, but have done for other EMN activities reports.

[1] Additionally a National Report from **Spain** is now available on the EMN Website. A National Report from the **Czech Republic** will also become available on the EMN Website.

[2] Statistics were only provided however for the reference period 2001-2010.

## Executive Summary

The EMN Study 2011 on *Visa Policy as Migration Channel* analyses the possible nexus between visa policy and migration management. The study examines the effects of visa policy on the management of migration, both in terms of facilitating legal migration and preventing irregular migration. Moreover, the study generates evidence to support the effectiveness of different strategies to use visa policy to manage migration, including cooperation with third countries particularly concerning facilitation and bilateral/multilateral agreements, and highlighting best practice.

In order to identify whether a nexus exists between visa policy and migration management, the study focuses mainly on Member States' practices relating to long-stay visas (so-called "national type "D" visas") as opposed to short-stay visas harmonised in Schengen Member States as part of the Schengen acquis. National type "D" visas are issued to third-country nationals in accordance with national legislation and relate to migration (reasons). Schengen visas (short-stay type "C" visas) are issued by Schengen Member States for envisaged stays of not more than three months in a six month period.

The number of national type "D" visas issued by Member States (Section 2.1) increased from around 2.68 million in 2008 to 2.88 million in 2010 with a wide variation in the reasons (education, employment, family, other) for issuing them between the Member States which tends to be connected with national visa policy in place in the Member States, with some focussing on certain migration reasons.

Overall the policy and practices related to the issuing of national type "D" visas constitute, in all Member States, a first and essential element of migration management (Section 2.2). In most Member States, the issuing of national type "D" visas is an important part of the admission and immigration process, with a view to long-term stay. Significant changes in the national vision and policy relating to national type "D" visas over time in a number of Member States are attributed to factors such as increases in emigration of nationals to third countries, economic development, changes in foreign policy, and accession to the EU. Historical and ethnic ties also play a part. A number of Member States place specific focus on issuing visas for the purpose of work, in several cases, for highly skilled work.

When looking at national visa policies and practices in place, four groups of Member States can be broadly identified. The first group consists of Member States in which national visa policy and practices fully reflect overall migration policy, where the national type "D" visa is issued nearly always as a residence title in itself. A second group relates to Member States which use visas to facilitate legal migration but with varying visa issuing procedures, depending on the type of migration. In these Member States, the national type "D" visa is usually a prerequisite for obtaining a residence permit, which has to be applied for either in the country of origin or upon arrival in the Member State. Thirdly, a limited group of Member States do not use national type "D" visas to promote legal migration and hence do not issue any long-term visas, or only in exceptional circumstances. These Member States either allow for the residence permit to be obtained directly in the country of origin or to be requested upon arrival. Finally, a number of Member States use alternative practices for issuing national type "D" visas, depending on the reasons for their issuance.

Concerning the various stages in the visa procedure (Section 2.3), the study presents the relevant actors responsible in the Member States at each stage. Most Member States apply similar requirements with regard to documentation during the application stage, with travel documents, proof of sufficient resources and insurance generally required. Other documentary requirements are also in place in Member States depending on the purpose of intended stay (i.e. proof of a sponsor for family reunification). In order to ensure transparent procedures, the possibility of appeal and judicial review is also available, with most Member States allowing applicants to appeal a negative decision.

Border guards also play a role in checking the validity of visas presented at a border crossing point. The number of third-country nationals refused entry at the border (Section 3.1) has decreased between 2008 and 2010 from around 635 000 to around 390 000, with the proportion of third-country nationals refused entry due to having no valid visa or residence permit decreasing from 39% (2009) to 34%

(2010). National visa policy, which acts as a form of pre-entry procedure to ensure that third-country nationals comply with entry requirements, helps to prevent irregular migration (Section 3.2), with Member State missions abroad determining whether a third-country national should be granted an entry permit and to prevent the need to terminate an irregular status *ex post facto*. Member States have introduced a variety of specific measures in their visa issuing procedures to tackle irregular migration which includes the assessment of willingness to return, the training of personnel and cooperation and information exchange with other entities and Member States.

With regard to cooperation with third countries, Member States have entered into a number of bilateral agreements with third countries (Section 4.1) which have an effect on their national visa policy. These agreements vary from one Member State to another but focus on aspects such as youth mobility and professional migration including seasonal work and highly qualified work. The study also provides practical examples through case studies (Section 4.2) on China, Nigeria and the Russian Federation with specific measures undertaken by the Member States outlined, including bilateral agreements, memorandums of understanding and programmes/schemes. The study examines the impact of these measures on the facilitation of legal migration and/or the prevention of irregular migration.

Many Member States have had to amend their visa policy relating to national type "D" visas due to the impacts EU policy and legislation (Section 5) have had on visas within the Schengen area. Accession to the Schengen area impacted a number of Member States with possibilities for shaping national visa policy being reduced substantially to cover only the issuing of type "D" visas.

A number of challenges and success factors have been experienced by Member States in relation to national type "D" visas. Concerning the facilitation of legal migration (Section 6.1), the efficiency of procedures during the application process and treatment of visa applications was considered to be of high importance in order to attract third-country nationals, with focus placed on speedy procedures as well as cooperation with consulates abroad. For the prevention of irregular migration (Section 6.2), the main challenges identified by Member States concern finding the right balance between facilitating legal migration with national type "D" visas, while also combating irregular migration including the risk of potential for overstaying. The role of personnel was considered to be important for the success of visa procedures. Challenges identified included the abolition of internal borders in the Schengen zone, falsification and trafficking of visas, lack of guidelines on visa issuance for specific third-country regions at risk, improper use of the visa regime for asylum applications, obtaining visas under false pretences and delays in transport carriers belated submission of information to the authorities.

The concluding remarks (Section 7) outline the nexus which does seem to exist in a number of Member States between visa and migration policy, with practices not only serving to manage migration, in terms of controlling and facilitating entry and admission, but also to promote legal migration and prevent irregular migration. National visa policy is used in many Member States to facilitate, and in some cases, promote particular types of legal migration, such as economic migration, migration of highly-skilled workers and/or from specific third countries. In these cases, visa procedures are geared to simplify the process of entry and admission to the Member State.

The form of the nexus differs greatly, however, between the EU Member States. Importantly it appears that all Member States have not applied an overarching principle or theory in the decisions over time on whether or not a migrant from a specific third country who wishes to study, work or be reunited with his/her family is to apply for a national type "D" visa in the country of origin and/or a residence permit in the country of origin or upon arrival in the Member State. Rather historic or ad hoc considerations seem to have influenced Member States' decisions on how best to manage migration. A mosaic of visa and residence permit requirements therefore exists in several EU Member States.

# 1. INTRODUCTION

The main aim of this EMN study on "Visa Policy as Migration Channel" was to analyse the possible nexus between visa policy and migration management. The Study firstly aimed to examine the effects of visa policy on the management of migration, both in terms of facilitating legal migration and preventing irregular migration. In addition, the study aimed to generate evidence concerning the effectiveness of different strategies to use visa policy to manage migration, including cooperation with third countries, particularly concerning facilitation and bilateral/multilateral agreements and highlighting best practice, as well as helping to contextualise national policies and practices by providing an overview of policy in this area across the EU. Finally, the Study aimed to explore the effects of EU policy and legislation on national policymaking and practices.

In order to identify whether a nexus exists between visa policy and migration management, the Synthesis Report focuses mainly on Member States' practices relating to long-stay visas (so-called "national visas") as opposed to short-stay visas harmonised as part of the Schengen acquis. Long stay national visas are issued to third-country nationals in accordance with national legislation and relate to migration (reasons). Schengen visas (short-stay type "C" visas) are issued by Schengen Member States for envisaged stays of not more than three months. The use of these visas, and the EU policy associated with them, is relevant due to their impact on Member States' national visa policy.

This Synthesis Report summarises the key findings from National Reports produced by 21 of the EMN National Contact Points: **Austria**, **Belgium**, **Bulgaria**, **Estonia**, **Finland**, **France**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Malta**, **Netherlands**, **Poland**, **Slovak Republic**, **Slovenia**, **Sweden** and **United Kingdom**, highlighting the most important aspects and placing them as much as possible within an EU perspective. The findings presented here refer to the situation in the Member States of the participating EMN NCPs during the period from 2004 up to 2011. More detailed information on the topics addressed may be found in the available National Reports[3] and it is strongly recommended to also consult these in order to obtain a greater level of detail in relation to the specific situation of each participating Member State.

As part of this Introduction, an explanation of the *definitions* (Section 1.1) used to undertake this study is given next, followed by an overview of the *methodology* (Section 1.2) used and a brief description of EU visa policy and legislation (Section 1.3). The rest of this Synthesis Report then outlines visa policy and practices facilitating legal migration (Section 2) and preventing irregular migration (Section 3) in the Member States. A description of cooperation with third countries is then given (Section 4) both in relation to agreements in place as well as Member States' experience with case studies. The Synthesis Report furthermore outlines the effects of EU policy and legislation in the Member States (Section 5), as well as the challenges and success factors (Section 6) experienced. Finally, concluding remarks (Section 7) on the use of visa policy as a migration channel are outlined.

## 1.1 Definition

For the purposes of this Study, a **Visa** is the authorisation or decision of a Member State required for transit or entry for an intended stay in that Member State or in several Member States.[4] The nature of the visa is determined in accordance with the following definitions:

(i) "long-stay visa" means the authorisation or decision of a Member State required for entry for an intended stay in that Member State of more than three months;

(ii) "short-stay visa" means the authorisation or decision of a Member State required for entry for

[3] Available from: www.emn.europa.eu under "EMN Studies."
[4] Definition of "Visa" from EMN Glossary

transit through or an intended stay in that State or in several Member States for a period whose total duration does not exceed three months in a six month period.

Within the EU, visas are currently granted by Schengen Member States[5] under the following categories:

- Type A: Airport Transit visas;
- Type C: Short-stay visas (for envisaged stays of not more than three months in any six-month period);
- Type D: Long-stay visas (so-called "National Visas" for envisaged stays of more than three months in a twelve month period).

In **Bulgaria**, **Ireland** and the **United Kingdom**, national visas referred to in this Synthesis Report cover both short-stay and long-stay visas.[6] For the purposes of this Study, in order to ensure consistency, when reference is made to short-stay visas under the Schengen acquis, the term "Schengen type "C" visa" will be used. The term "national type "D" visa" will be used when describing visas issued by both Schengen Member States and non-Schengen Member States for the purpose of a long-term stay.[7]

## 1.2 Methodology

The National Reports are based on common Study Specifications,[8] developed by the EMN and followed by all EMN NCPs to ensure, to the extent possible, comparability and facilitate the preparation of the Synthesis Report.

The EMN does not normally engage in primary research, but rather collects, gathers and evaluates data and information which are already available. In accordance with this usual practice, the National Reports of the Member States were based on desk analysis of existing legislation, reports, literature reviews and statistics available from National State Authorities (Ministry Departments and the Central Statistics Offices and Registers), Ad-Hoc Queries, academia, newspapers, articles and websites.

However, in comparison with previous EMN Studies, there was a significant lack of existing material on this topic, with some existing studies only discussing limited aspects of visa policy in the Member States, such as in **Finland**, **Hungary**, **Ireland**, **Italy** and **Malta.** This lack of information caused difficulties in drafting National Reports, with Member States having to do more primary research than usual. Many Member States (**Austria**, **Belgium**, **Bulgaria**, **Finland**, **France**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Lithuania**, **Luxembourg**, **Malta**, **Slovak Republic**, **Slovenia**, **Sweden**, **United Kingdom)** therefore conducted expert interviews with State Authorities and academic experts.

All Member States were able to provide data, to some extent, on visas issued to third-country nationals. Some Member States (**Austria**, **Belgium**, **Finland**, **France**, **Greece**, **Hungary**, **Ireland**,

[5] This covers all the Member States participating in this Study, except **United Kingdom**, **Ireland** and **Bulgaria**.

[6] In accordance with Council Decision 2000/365/EC of 29 May 2000 and Council Decision 2002/192/EC of 28 February 2002, the **United Kingdom** and **Ireland** cooperate in some aspects of Schengen, namely police and judicial cooperation in criminal matters though are not bound by the entire Schengen Acquis. Therefore, in both Ireland and the United Kingdom, national legislation regulates all visas, both short and long stay, for the purposes of entry into these two Member States. Moreover, regarding **Bulgaria** and Romania, a transitional Decision 582/2008/EC of 17 June 2008 was adopted which permitted these Member States to recognise, for the purposes of transit, Schengen documents as well as documents issued by each other. Similarly to Bulgaria and Romania, Cyprus also remains bound by a limited set of EU visa measures referred to in the 2003 accession treaty though are allowed to also recognise as equivalent to their national visas, for the purpose of transit, Schengen visas, long-stay visas and residence permits issued by Member States applying the Schengen rules.

[7] Short stay national type "C" visas, issued by non-Schengen States, are not a focus of this study.

[8] Available from: www.emn.europa.eu under "EMN Studies"

**Latvia**, **Lithuania**, **Luxembourg**,[9] **Malta**, **Poland**, **Slovak Republic**, **Slovenia**, **Sweden**) did, however, encounter problems in finding statistics for the study due to data collection being fragmented in their Member State and some Member States collecting few statistics on national type "D" visas.

### 1.3 EU Visa Policy and Legislation

The Treaty on the Functioning of the European Union (TFEU)[10] makes a distinction between **short stay** and **long stay** for third-country nationals, covering short stays in the **Schengen acquis** in Article 77(2) and long stays as part of a **Common Immigration Policy** in Article 79(2). Both short and long-stay visa policies are thus seen as essential tools to be used by Member States balancing the need for effective and efficient access to the EU, as well as the need to guarantee security.

With regard to long-stay (Type D) visas, these are issued to third-country nationals in accordance with national legislation. Third-country nationals, wanting to stay longer than three months in one or more Member States, need to either obtain a national long-stay visa or a residence permit from the Member State to which they wish to move. Under the Schengen acquis, "D" visas and residence permits also enable the title holder to stay in another Schengen state for three months in a six month period. Article 79(2)(a) of the TFEU provides that measures shall be adopted in the area of "*the conditions of entry and residence, and standards on the issue by Member States of long-stay visas and residence permits, including those for the purpose of family reunification*."[11]

Regulation (EU) 265/2010 amending the Convention implementing the Schengen Agreement and Regulation (EC) No 562/2006[12] was adopted with a view to establishing rules on the freedom of movement with a long-stay visa. The Regulation provides, in Article 21, that third-country nationals who hold a valid long-stay visa issued by one of the Member States may, on the basis of that visa, move freely for up to three months in a six month period within the territories of the other Member States, provided that they fulfil the necessary entry conditions. This Regulation therefore facilitates the free movement of third-country nationals within the EU when entering with a national type "D" visa.

In addition to the provisions of the TFEU, the Commission's Communication on the Global Approach to Migration and Mobility (GAMM), published in 2011, highlighted the link between mobility and visa policy, with visa policy considered to be an "*influential instrument for a forward-looking policy on mobility*." Moreover, the Commission also outlined the importance of visa policy in relation to preventing irregular migration and effective return policy. The GAMM outlined the importance of fully assessing the existing and possible future visa dialogues launched by the EU in order to ensure that before visa obligations are facilitated or lifted, a number of specific benchmarks are fulfilled by the partner countries.[13]

[9] In **Luxembourg**, national type "D" visas are authorised by the Directorate of Immigration, while type "C" visas are issued by the Passport and Visa Department. The only information obtained was for 2010 though national type "D" visas were not specified by type.

[10] And previous Treaties from the Maastricht Treaty onwards.

[11] A number of legislative instruments, as part of the migration acquis, are of relevance due to the provisions relating to the issuance of residence permits. These include Council Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research, Directive 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service and Directive 2003/86/EC on the right to family reunification.

[12] Available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:085:0001:0004:EN:PDF

[13] For further information see SEC(2011) 1353 final Commission Staff Working Paper Migration and Development accompanying the Commission's Communication on the Global Approach to Migration and Mobility, available at http://ec.europa.eu/home-affairs/news/intro/docs/2_EN_autre_document_travail_service_part1_v3.pdf

## 2. VISA POLICY AND PRACTICES FACILITATING LEGAL MIGRATION

This Section provides an overview of the visa policy and practices facilitating legal migration in the Member States. Section 2.1 firstly sets out a statistical overview relating to the issuance of national type "D" visas in the Member States. Section 2.2 then presents the different national visa policies and practices focusing on legal migration.

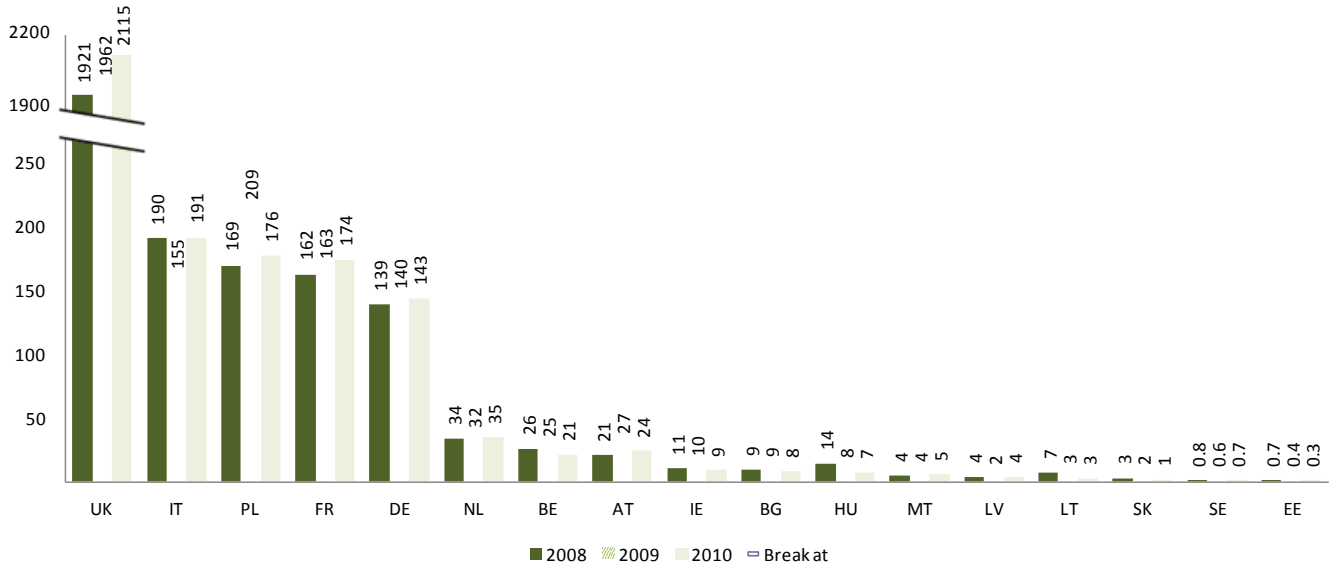
The policy and practices related to the issuing of national type "D" visas constitute, in all Member States, a first and essential element of migration management overall. In the vast majority of Member States, national type "D" visas form an important part of the admission and immigration process, with a view to long-term stay. They are either a prerequisite for a subsequent residence or other permit to stay, or are considered a residence title themselves, depending on the visa legislation in a Member State, as well as provisions in EU legislation, as further detailed in Section 2.2 below.

Some Member States have developed a clear and coherent vision around the type of legal migration they wish to promote, the resulting visa issuing practice followed and the type of visa issued. The prevention of irregular migration is less explicit in national visa policies than it is in practical measures taken by the Member States, especially in the application stage and upon entry in the EU, but is an integral part of visa policy.

### 2.1 Issuance of visa applications: A Statistical Overview

The number of national type "D" visas issued by Member States has increased from around 2.68 million in 2008 to around 2.88 million in 2010. Figure 1 provides an overview of national type "D" visas issued in some Member States between 2008 and 2010. The overall increase in the number of visas issued can be attributed mainly to increases in those Member States (**France**, **Germany**, **Italy**, **Poland**, **United Kingdom**) issuing the largest number of visas. Between 2008 and 2010, the **United Kingdom** issued the greatest number of national type "D" visas, with an increase of 10% between 2008 (around 1.9 million) and 2010 (around 2.1 million)).[14] **France** also experienced an increase of 7% from 2008 (around 160 000) to 2010 (around 170 000).

**Figure 1: National type "D" visas issued, 2008-2010 (in 1000s)**




*Source: EMN Statistical Tables*

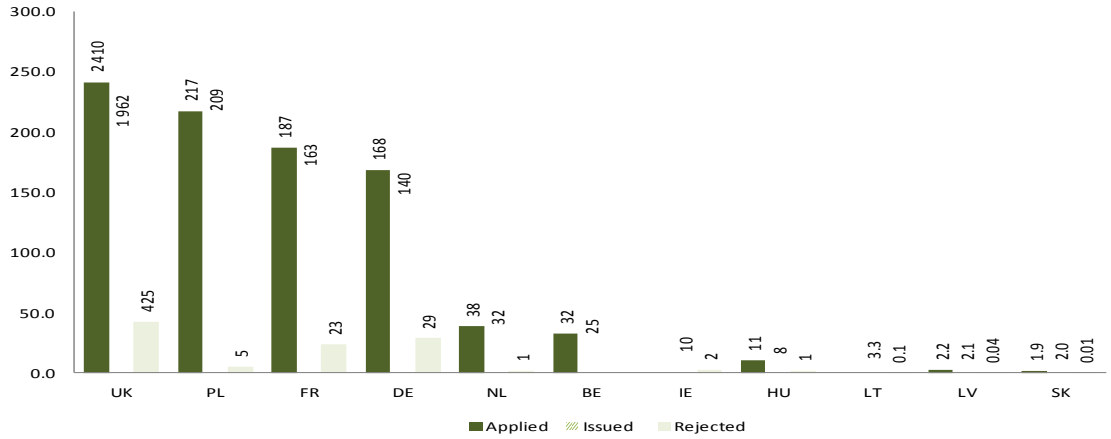
[14] The **United Kingdom** can separately identify visas issued for transit (Type A). However, all other visas issued are placed with Type D (i.e. longer than six months) in the statistical tables included in the report. Therefore, it is expected that the United Kingdom figures for visas of type 'D' would be higher than in other Member States.

In **Germany**, though the number of these visas increased slightly by almost 3% between 2008 (around 140 000) and 2010 (around 143 000), this followed a period where the number of national type "D" visas decreased by almost 66% between 2001 (around 400 000) to 2007 (around 135 000). Some Member States (**Estonia**, **Italy**, **Lithuania**, **Slovak Republic**) experienced a decrease in the number of national type "D" visas issued. For example, in **Lithuania**, the number significantly decreased by 62% between 2008 (around 6 700) and 2010 (around 2 500). Moreover, in **Italy**, a decrease of almost 32% was experienced from around 320 000 (2008) to around 220 000 (2010).

Concerning the share of national type "D" visas issued in 2010, as a total of all visas issued (i.e. including also short-stay visas) this ranged significantly from one Member State to another. In **Poland**, over a fifth of all visas issued were national type "D" visas in 2010, and in **Italy** they represented nearly a sixth. In **Ireland**, **Malta** and **Belgium**, the number of type "D" visas issued represented more than a tenth of the total. In some Member States, however, (**Bulgaria**, **Hungary**, **Slovak Republic**, **Latvia**, **Lithuania**), national type "D" visas represented less than 5% of the total number of visas issued, and in **Luxembourg**, in 2010, 224 national type "D" visas were issued, which, in addition to the 105 D+C visas issued, represented approximately 4% of the total number of visas issued.[15] In **Sweden** and **Estonia**, these visas represented less than 0.5% of the total visas issued. This portion is directly related to the Member States' national vision and policy relating to national type "D" visas, as described below.[16]

In relation to the number of national type "D" visas applied for, issued and refused in some Member States in 2009, Figure 2 demonstrates the number of visa applications rejected in the Member States. In the **United Kingdom**, of the approximately 2.4 million applications in 2009, almost 1.97 million were issued, with around 425 000 (17.6%) of the total applications refused. Similarly, in **Germany**, 16.2% of visa applications were refused in 2009. In **France**, of the approximately 190 000 visa applications, 12.5% (23 353) were refused. Smaller proportions of visa applications were refused in other Member States, such as **Poland** and the **Slovak Republic**. In **Poland**, of the approximately 220 000 visa applications, almost 210 000 visas were issued, with only around 2% refused, and in the **Slovak Republic**, 0.4% of the overall visa applications were refused. The small percentage of refusals is influenced by national policy in these countries, which aims to attract migrants by the issuance of national type "D" visas.

**Figure 2: Applications, Issued and Refused national "D" visas (in 1 000s), 2009**



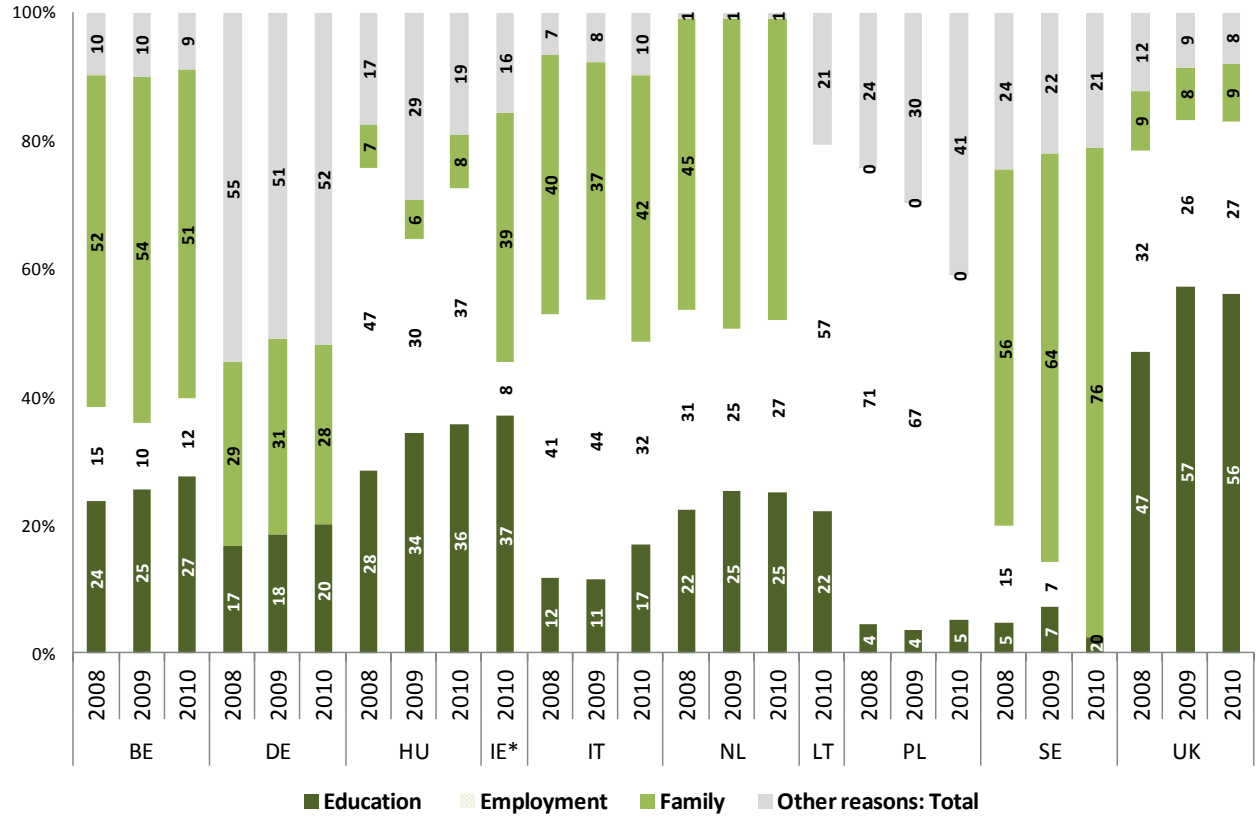

*Source: EMN Statistical Tables*

[15] It is important to note that the statistics for national type "D" visas was not available for the last 10 years at the moment that the study was finalised and it is important to take into consideration that on 29 August 2008 the Law on free movement of persons and immigration came into force so the criteria for granting D visas changed with the new categories of authorisation to stay.

[16] An exception to this is practice in the **United Kingdom** where only national type "D" visas are issued. In the United Kingdom, 99% of all visas issues were national type "D" visas.

Member States issue visas for a number of different admission purposes. Figure 3 presents the portion of national type "D" visas issued by reason between 2008 and 2010.

**Figure 3: National "D" visas issued by purpose, 2008 – 2010**




*Source: EMN Statistical Tables*

**All breakdowns of total visas issued by **Ireland** into C and D categories are estimates.*

National type "D" visas issued for the purpose of education represented the largest proportion of visas in the **United Kingdom**, with the proportion ranging from 47% (2008) to 56% (2010). In **Hungary** and **Ireland**, visas issued for education purposes amounted to over a third of all type "D" visas issued in 2010. In **Belgium**, approximately a quarter of all type "D" visas issued were for education purposes between 2008 (24%) and 2010 (27%). In contrast, some Member States issued small numbers of these visas for education purposes. For example, in **Poland**, only 5% of all type "D" visas issued were for education reasons in 2010, with only 2% issued for this purpose in **Sweden**.

With regard to employment, this category represented a large portion of national type "D" visas issued in **Hungary**, **Italy**, **Lithuania**, **Poland** and **United Kingdom**. In **Poland**, 71% of all visas issued in 2008 were for employment purposes, with the proportion decreasing to 54% in 2010.

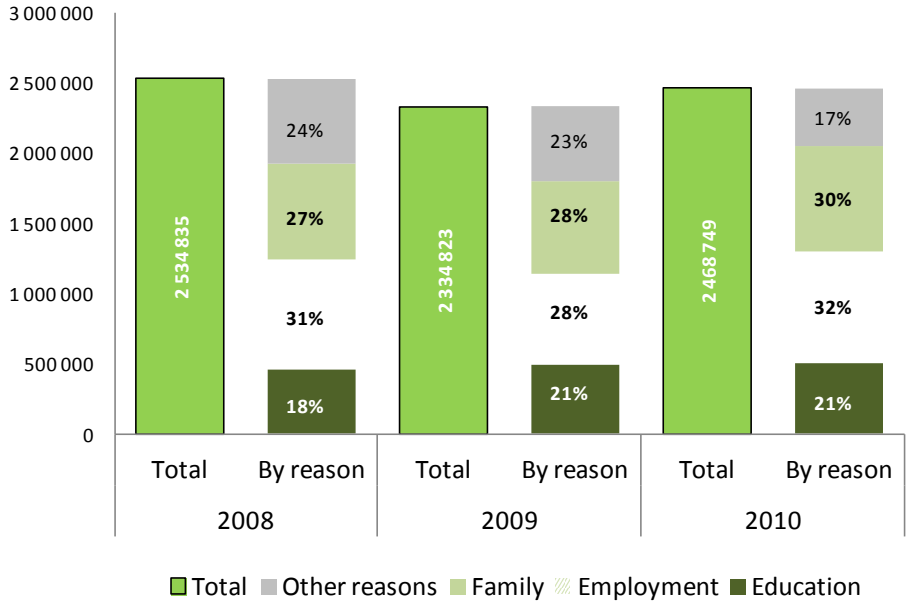
In **Belgium** and **Sweden**, the highest portion of national type "D" visas issued was for family reasons between 2008 and 2010. In **Belgium**, over half of such visas were issued to family members, while in **Sweden**, this category received more than three quarters (76%) of the type "D" visas issued in 2010. In **Italy**, in some years, visas for employment prevailed whereas other times those for family reasons represented the largest portion; in 2010 the relative proportions were 31.6% and 41.8% respectively.

Some Member States issued national type "D" visas for "other" reasons during 2008 and 2010,

which are described further in Section 2.2 below.

Figure 4 provides an overview of the first permits[17] issued at EU level by total and reason between 2008 and 2010. Of the approximately 2.9 million national type "D" visas issued in 2010, it can be assumed that a portion of these visas replaced by residence permits.[18] The number of permits issued decreased between 2008 and 2009 from around 2.5 million (2008) to around 2.3 million (2009). The number increased however to almost 2.47 million in 2010. The largest portion of permits was issued for remunerated activities in these three years, with 32% of the first permits in 2010 issued for this reason. The number of first permits issued for family reasons increased between 2008 and 2010, with the portion increasing from 27% to 30% of the total number of first permits issued. An increase was also noted in the number of residence permits issued for education reasons from 18% (2008) to 21% (2010).

**Figure 4: First permits, EU level, total and by reason (share of total), 2008-2010**




*Source: Eurostat.*[19]

## 2.2 Visa policy and practice

National visa policy and practice form an integral element of the approach to managing legal migration of most Member States. Most Member States have a national visa policy in place, many of which are placing focus on different types of migration, as well as on different aspects of the admission and immigration processes. Most Member States also consider the management of first access to the national territory as the main function of visas. For example, **Belgium** considers national type "D" visas as a broader tool for managing migration, but also to ensure national security. The **United Kingdom** use national type "D" visas flexibly to manage different types of immigration. In **Ireland**, a national visa is seen as a form of "pre-entry clearance" to travel to a point of entry in the Member State. In the **Netherlands**, the connection between visa policy and

[17] As defined by Eurostat, a first permit is a residence permit issued to a person for the first time. A residence permit is considered as a first permit also if the time gap between expiry of the old permit and the start of the validity of the new permit issued for the same reason is at least six months, irrespective of the year of issuance of the permit. Further information available at: http://epp.eurostat.ec.europa.eu/cache/ITY_SDDS/EN/migr_res_esms.htm

[18] Though it can be assumed that a portion of national visas are transferred into residence permits, in accordance with national immigration policy, it must also be taken into account that a visa issued in one year may only be transferred into a residence permit in the following year.

[19] Data for **Luxembourg** included for the year 2010 only

migration is evident in relation to the policy relating to the Regulation Provisional Residence Permit (MVV). As the MVV is a condition which must be satisfied in order for entry to be granted, the MVV policy is considered as the instrument for migration management.

The national vision and policy relating to national type "D" visas in some Member States has significantly changed over time. Factors such as emigration of nationals to third countries (**Bulgaria**, **Hungary**, **Lithuania**, **Poland**), economic development (**Belgium**), foreign policy (**Germany**), historical and ethnic ties (**Hungary**), joining the Schengen zone (e.g. **Lithuania**) and accession to the European Union (**United Kingdom**) have played a role in developing Member States' visions towards visas. For example, in **Bulgaria**, **Lithuania** and **Poland**, visa policy aims to manage neighbourhood policy in order to facilitate migration and travel with neighbouring countries. In **Belgium**, national emphasis was previously placed on securing public order and managing irregular migration flows. However, the last few years have triggered a favourable approach towards migration for economic purposes, with a more targeted national policy for attracting migrants to stimulate the economy. National visa policy is thus used to promote migration. **Italy** has strengthened the diplomatic-consular network in those countries where many migrants come from.

With regard to types of migration linked to visas, in **Bulgaria**, **Estonia**, **France**, **Ireland**, **Italy**, **Lithuania**, **Luxembourg** and **United Kingdom**, national visa policy is greatly focused on facilitating the entry and admission of migrants for the purpose of work, in **Ireland** for study, and in the **United Kingdom** for study and family reasons. For example, in **Italy**, in connection with the amendment of the quota-related legislation, national type "D" visas are used as a tool to remove some of the difficulties met by highly qualified third-country nationals applying for entry visas for the purpose of employment and self-employment. In the **United Kingdom**, visas for work and study are issued through the Points-Based System, in order to select those migrants with the most relevant profile to the territory. In **Lithuania**, national visa policy aims to meet economic and labour market needs by facilitating the arrival of workers.

A few Member States (**Bulgaria**, **France**, **Ireland**, **Luxembourg**, **Netherlands**) place specific focus on attracting highly-skilled workers. In **Bulgaria**, **Estonia**, **Ireland**, **Italy**, **Lithuania** and **France**, national visa policy places a particular focus on third-country nationals entering for study reasons. For example, in **Ireland**, visa policy aims to facilitate entry to such migrants, particularly students, who can make a valuable economic or cultural contribution.

In addition to visa policies placing specific focus on certain categories of migrants, some Member States' policies (**Bulgaria**, **Hungary**, **Italy**, **Ireland**, **Finland**, **Lithuania**, **Poland**) focus on certain third countries. Focus is placed on third countries with specific geographic and historical links, such as the Russian Federation (**Hungary**, **Finland**, **Lithuania**, **Poland**). Focus is also placed on third countries which have a specific diaspora link to the Member State, such as Moldova (**Bulgaria**, **Lithuania**), Armenia (**Bulgaria**), Belarus (**Poland**, **Lithuania**) and Ukraine (**Bulgaria**, **Lithuania**, **Poland**). For example, in **Poland**, diaspora populations living in neighbouring non-EU countries are offered the possibility of receiving national type "D" visas. **Italy** places emphasis on the issuance of visas to countries belonging to the Mediterranean area and the Balkans. This is the case, for example, in relation to the Moroccan community which has shown a tendency for settlement in **Italy**. **Ireland** focuses on several third countries, including China due to the large number of international students from China choosing to study in Ireland.

Member States also place focus on specific categories of third-country nationals. **Belgium**, **Germany**, **France**, **Hungary**, **Italy**, **Latvia**, **Luxembourg**,[20] **Poland**, for example, have national

[20] In **Luxembourg**, this category was specified in the Law of 1st July 2011, which modified the law of 29th August 2008.

type "D" visas at their disposal for humanitarian reasons.[21] In **France**, **Italy** and **Latvia**, these visas can be issued in emergency situations, such as during the Haiti earthquake (**France**). In **Italy**, national type "D" visas were issued on the occasion of the recent North African flow of migration following the Arab Spring.

Some Member States issue visas for other purposes, which are linked in some instance to historical or ethnic ties. For example, in **Bulgaria**, national type "D" visas are issued to facilitate the return of persons of Bulgarian nationality or origin, including persons of Bulgarian origin born in the Member State who have lost their citizenship by emigration and want to settle permanently in Bulgaria. **Hungary** also places specific focus on maintaining relationships with their diaspora. In other Member States, national visas are also issued for various other reasons including medical treatment (**Ireland**) and religious volunteers (**Ireland**).

A number of changes have occurred over recent years to visa policy and legislation relating to national type "D" visas in **Austria**, **Belgium**, **Estonia**, **France**, **Greece**, **Ireland**, **Italy**, **Netherlands**, **Slovak Republic**, **Sweden** and the **United Kingdom**. **Austria**, **Belgium** and **Greece** adopted changes to facilitate the entry of economic migrants. In **Austria**, the latest amendments to the *Alien's Law* affected national type "D" visas. Since July 2011, highly skilled third-country national workers have the opportunity to obtain a national type "D" visa for the purpose of seeking a job there. In **Belgium**, a special service was founded within the Immigration Service in 2008 to promote economic migration, speeding up national visa procedures. In **Greece**, a new law was adopted in 2011 providing seasonal workers and fishermen, under fast procedures, the right to enter the Member State and to access the labour market when holding a national type "D" visa of no more than six months (seasonal visa) or ten months (fisherman visa) respectively.

For **Estonia**, the 2010 *Aliens Act* removed the limit on the number of national type "D" visas which can be issued, to promote cooperation, business and trade. **Ireland** has worked to streamline visa regimes for identified groups of students with a view to attracting them. For example, a pilot "trusted agent scheme" has been undertaken with Indian educational institutions in order to accord priority to student visa applications. In relation to new short stay visas, a waiver programme, in the framework of the Common Travel Area, was introduced in **Ireland** in 2011 for holders of certain UK visas, allowing some nationalities to travel to Ireland without having to request an Irish visa, in order to promote tourism from emerging markets.

**France**, **Italy** and **Slovak Republic** introduced new national type "D" visas in recent years. For example, in **France**, the long-stay VLS-TS visa was introduced in 2009, exempting its holders from requiring a residence permit. This aimed to facilitate the arrival of workers, students, family of French nationals and visitors. In the **Slovak Republic**, new purposes for issuing a national type "D" visa were added to the *Act of Stay of Aliens* in 2008, relating to visas being issues rather than a residence permit. Moreover, in 2011, it was decided that national type "D" visas would be granted to family members of beneficiaries of international protection, with this entering into force in 2012. In **Italy**, the Inter-ministerial Decree of 11th May 2011 simplified the type of visas requested for family reasons, merging two existing visas into a new national type "D" visa for "family reasons" and abolishing the visa for "integration into the labour market."

The **United Kingdom** recently implemented a number of visa policy changes to meet the Government's aims to reduce net migration, whilst still attracting the brightest and best migrants to meet the needs of the UK economy, and to reduce abuse of migration routes. Changes included the introduction of a limit on non-EEA migrants coming to the UK for work purposes, amendments to the UK Shortage Occupation List for skilled labour migration, tightening of the student and family

[21] Further information on Member State humanitarian practices is available in the EMN's Study on "The different national practices concerning granting of non-EU harmonised protection statuses", available under "EMN Studies" at www.emn.europa.eu

routes and further facilitating migration of those of high value and low-risk to the UK.

## 2.3 Grouping of policy and practice

Overall, when looking at national visa policies and practices in place, four groups of Member States could be broadly identified as detailed below.[22] The practices associated with these groups are described in Table 1 overleaf. In a number of Member States, a number of different practices are used. Their primary practices are therefore presented by a √, with secondary visa practice (s) represented by an X. Member States' primary practices are considered to be those which are used most often in the Member States, with secondary practices reflecting the additional practices used in some Member States for certain admission purposes.

**Group A:** Member States in which national visa policy and practices fully reflect their overall migration policy. In these Member States, the national type "D" visa issued is nearly always a residence title in itself (referred to as practice A), thus constituting both a permit to enter the Member State as well as the permission take up residence in the Member State linked to a specific purpose, without requiring any additional permit (Table 2);

**Group B:** Member States which use national visa policy to facilitate legal migration, but with varying visa issuing procedures, depending on the type of migration. In these Member States, the visa is usually a prerequisite for obtaining a residence permit, which has to be applied for either in the country of origin (referred to as practice B.1), or upon arrival in the Member State (referred to as practice B.2). Visas are primarily issued to travel to the Member State and are considered as a permit to travel and enter the Member State.[23] This is especially the case in Practice B.1 and to a lesser extent in Practice B.2 where specific conditions linked to admission and residence are already checked during the visa application process (Table 3 and Table 4);

**Group C:** Member States which do not use national type "D" visas to promote legal migration and hence do not issue any long-term visas, or only in exceptional circumstances. These Member States either allow for the residence permit to be obtained directly in the country of origin or to be requested upon arrival (referred to as practice C) (Table 5);

**Group D**: Member States which were identified as having alternative practices for issuing visas (see Table 6)

The specific characteristics and approach of each of these groups are further described in the following sub-sections.

[22] Member States were broadly classified into three main groups, though, due to the complex and different practices, a Member State practice may also fall under another group (s).
[23] In addition to normal travel documents, e.g. passport.

**Table 1: National Visa Practices for admission of third-country nationals (√ - primary, X – secondary practice)**

| Member State | Practice A - Visa is residence title | Practice B.1 – Visa and residence permit applied for in country of origin | Practice B.2 – Visa applied for in country of origin, residence permit upon arrival | Practice C – Residence permit obtained in country of origin | Practice D – Other |
|---|---|---|---|---|---|
| ***Group A*** | | | | | |
| United Kingdom | √ | | | | |
| Slovenia | √ | | X | | X |
| ***Group B*** | | | | | |
| Belgium | | √ | X | | |
| Bulgaria | X | | √ | | |
| France | √ | | √ | | |
| Germany | | | √ | | |
| Greece | X | | √ | | X |
| Hungary | X | √ | | X | |
| Ireland | | | √ | | |
| Italy | | | √ | | |
| Lithuania | X | X | √ | | X |
| Luxembourg | | | √ | | |
| Malta | | √ | | | |
| Netherlands | | | √ | | |
| Poland | X | X | X | X | |
| ***Group C*** | | | | | |
| Finland | | | X | √ | |
| Estonia | X | | | √ | |
| Sweden | | | X | √ | |
| ***Group D*** | | | | | |
| Austria | | X | X | | √ |
| Slovak Republic | | | | | √ |

### *2.3.1. Group A: Member States managing legal migration through visa policy and practice*

Table 2 overleaf provides an overview of the national type "D" visas which constitute a residence title in themselves in the Member States. This table presents the Member States who consider this to be their primary practice, as well as those Member States who consider this to be their secondary practice for certain national type "D" visas.

The **United Kingdom** is the only Member State which exclusively issues national visas which are, at the same time, a residence title. Applicants are provided with national type "D" visas which constitute a residence title for the allowed duration of the stay. The duration of these national visas differs depending on the purpose of visit and the type of visa applied for. For example, third-country nationals falling under Tier 1 (high value migrants) and Tier 2 (skilled workers with a job offer) can be issued a visa for up to five years, while intra-corporate transferees may be issued visas for only a one-year duration, depending on the salary they receive.

A similar practice is most commonly followed in **Slovenia**, where the visa itself constitutes a permit for entry and stay for a maximum of one year. Third-country nationals are not required to obtain a residence permit until expiry of the long-term visa, after which they can request a permit with the local authorities. However, **Slovenia** also issues temporary residence permits directly in the country of origin (i.e. with no issue of a visa required for the purpose of entry).

**Table 2: National type "D" visas which constitute a residence title (Practice A)**

| Member State | Description |
|---|---|
| | **Primary Practice** |
| **Slovenia** | **Family, work, study, other**<br>National type "D" visa is issued for the time of planned residence but not for longer than a year. |
| **France** | **Family, study, work, visits**<br>Long stay visa equivalent to a residence permit (VLS-TS): Valid for a maximum of 12 months and allows the holder to enjoy benefits relating to his status as resident. The holder must register within three months of arriving in France. |
| **United Kingdom** | **All purposes**<br>Visas are issued under the Points Based System for work and study.<br>In addition, non-PBS work visas fall under the seasonal and agricultural work scheme and sectors based scheme. Visas are also issued for family migration and for visitors.<br>Once the third-country national has lived in the United Kingdom for a certain period of time, under Tier 1 and Tier 2 of the PBS, they may be entitled to apply for permission to settle there (Leave to remain).<br>Tier 1 and Tier 2 duration: 5 years<br>ICTs: 1 year for those paid between £24 000 and £40 000 and 5 years for those paid more than £40 000.<br>Tier 4 (students): Length of course. For study below degree level, this is three years. From April 2012, this will be limited to five years.<br>Tier 5 visas can be extended beyond a maximum stay of one to two years and holders must leave the UK. |
| | **Secondary Practice** |
| **Bulgaria** | **Study**<br>National type "D" visa valid for one year and with the right of residence to 360 days may be issued to third-country nationals who carry out research or student training programmes for one academic year. |
| **Estonia** | **Short-term employment**<br>National type "D" visa issued for multiple or single entries not exceeding six months at a time, if an international agreement does not foresee otherwise. |
| **Greece** | **For seasonal work and fishermen**<br>National type "D" visa has the status of a residence permit.<br>According to a new law (4018/11), seasonal workers are granted with a national type "D" visa of a six month duration in the first case and of a ten months duration in the second case, which gives them the right to reside and work without the need of a work permit / authorisation. |
| **Hungary** | **Hungarian diaspora**<br>Preferential visa which allows its holder to stay in Hungary for a maximum of five years.<br>The following general conditions must be satisfied in order to be able to apply: Protection and enhancement of their Hungarian language skills; Preservation of their national and cultural identity; Study and Education with the exception of participation in state higher education; and Strengthening the relationship with family members living in Hungary with the exception of family. |
| **Lithuania** | **Work, study, other**<br>If a third-country national intends to stay in Lithuania for no longer than 12 months a multi-entry national type "D" visa may be issued. This visa **does not** constitute a residence permit but it allows stay in the country for up to 12 months. If a person intends to stay for a longer period, s(he) must apply for a temporary residence permit. |
| **Poland** | National type "D" visas for third-country nationals intending to stay for more than three months but not needing a residence permit.<br>"Card of the Pole" allows for the third-country national to work in the Member State with a long stay visa issues. There is no need for a residence or work permit. |

Other Member States, whilst mainly using a different visa practice, have also – often recently – introduced visas which also constitute a residence permit. **France**, introduced the VLS-TS long stay visa, exempting its holders from the need to request a residence permit during the first year of stay[24] for four categories of third-country nationals, namely foreign spouses of a French national, students, salaried workers and visitors. If holders wish to extend their stay, they need to apply for a residence permit within two months of the visa expiry date. The introduction of this new type of national type

[24] Visa holders are, however, obliged to register with the French Office for Immigration and Integration.

"D" visa is part of a wider migration policy to gradually merge most long-stay visas with residence permits (together with the introduction of biometrics and the progressive outsourcing of application processing). Consequently, the number of national type "D" visas issued in line with this visa practice is increasing each year.

In **Bulgaria**, **Estonia**, **Greece**, **Lithuania** and **Poland**, the practice of using a national type "D" visa as a residence title is a secondary practice only, mainly related to work. Third-country nationals are thus exempt from the need to apply for a residence permit. In **Greece**, such short-term visas are limited to seasonal work and temporary work (e.g. for fishermen). **Hungary** issues "preferential visas," which allow its holders to stay for a maximum of five years. The main purpose of these is to maintain relationships between Hungary and ethnic Hungarians living abroad. **Bulgaria** has a specific national type "D" visa which provides students with the right of residence for 12 months when they wish to carry out research or participate in student training programmes. **Lithuania** issues national type "D" visas to workers, students and other groups who wish to stay for periods no longer than 12 months.

### *2.3.2 Group B: Member States which use visa policy to facilitate legal migration, but with varying visa practices*

In many other Member States, although they also use national visa policy to facilitate legal migration, their visa practice is less integrated in their migration policy, with national type "D" visas primarily being used as a permit to travel and enter the Member State, for a very limited duration, or as a temporary residence title which expires once the residence permit is issued.

#### *2.3.2.1 National type "D" visas and residence permits being requested in the country of origin (Practice B.1)*

Table 3 overleaf provides an overview of the Member States which apply the practice (either primary or secondary) of national type "D" visas and residence permits being requested in the country of origin.

For many of the national type "D" visa applications in **Belgium**, **Hungary**, **Lithuania**, **Malta** and **Poland**, the visa is a prerequisite for obtaining a residence permit, which also has to be applied for in the country of origin (but which may be provided upon arrival in the country of destination). This practice applies for the main purposes of work and family in **Belgium**, **Lithuania**, **Luxembourg**,[25] **Malta** and for study in **Belgium**, **Lithuania**, **Malta**. The national type "D" visa allows these third-country nationals to enter while waiting for a decision on a residence permit. In **Lithuania** and **Luxembourg**, the visa is considered to be a prerequisite for obtaining a residence permit for other reasons such as entry for sport, journalism and humanitarian reasons.[26]

Application processes also vary. For example, in **Hungary**, a residence permit application is made in the consulate of the country of origin, with no requirement to make a separate visa application. This procedure demonstrates the use of a visa purely as a permit to enter the Member State, with a visa only issued once the residence permit application has been submitted. In **Luxembourg**, a visa application can only be lodged once the application for the authorisation of stay has been approved. In **Poland**, separate applications are also required for the visa and the residence permit in the country of origin. For example, for third-country nationals entering the Member State for a period exceeding one year, an application for a national type "D" visa must be made in addition to the submission of a residence permit application.

In some Member States, such as in **Belgium** with regard to family members, further checks are

[25] This refers to family reunification.

[26] In **Luxembourg**, under article 78 (3) of the Law of 29 August 2008 on free movement of persons and immigration exceptionally the person can apply for the residence permit for humanitarian reasons in Luxembourg without applying his/her country of origin.

carried out upon the third-country nationals' arrival in the territory to, for example, verify that spouses actually share a household. Further information on the different checks and requirements made in Member States is provided below.

**Table 3: National type "D" visas and residence permit to be requested in country of origin (Practice B.1)**

| Member State | Description |
|---|---|
| **Primary Practice** | |
| **Belgium** | **Work, Study, Family**<br>Visas issued for a maximum period of six months. In general, D visa will lead to a residence permit automatically in the Member State once the third-country national has registered. |
| **Hungary** | National type "D" Visas for entitlement to receive a residence permit, for single entry in Hungary for the purpose of collecting the residence permit and for stay for a period not to exceed thirty days. The application for the residence permit is made in the consulate of country of origin with no need for a separate visa application. |
| **Malta** | **Work, Family, Study**.<br>National type "D" visa to be granted in order to collect a residence permit. |
| **Secondary practice** | |
| **Austria** | National type "D" visa is issued to a third-country national who will be granted a residence permit. Residence permit is issued after arrival to the Member State |
| **Lithuania** | **Work, Study, family,**<br>Single entry national type "D" visa is issued to a third-country national who has been granted a temporary or permanent residence permit. Residence permit is issued after arrival to the Member State. |
| **Poland** | Application for visa and residence permit must be made at a consulate abroad. |

### *2.3.2.2 National type "D" visas issued in the country of origin and residence permits requested within the Member State (Practice B.2)*

Table 4 below provides an overview of the Member States which apply the practice (either primary or secondary) of national type "D" visas being issued in the country of origin, with residence permits being applied for in the country of destination.

In the most common visa practice applied by **Austria**,[27] **Belgium**, **Bulgaria**, **France**, **Germany**, **Greece**, **Ireland**, **Italy**, **Lithuania**, **Luxembourg**, **Netherlands**, **Poland**, **Slovenia** and **Sweden**, the national type "D" visa is a prerequisite for obtaining a residence permit, but contrary to the practice above, the residence permit application is to be submitted following arrival in the Member State. In many cases, the visa issuing process is also used to manage migration, given that, as part of the visa application, compliance with (some) admission conditions are also being checked. This is because in several Member States, although primarily used as a travel/entry permit, the national type "D" visa also constitutes a temporary residence title, allowing the holder to reside in the territory for a certain period of time to apply for a residence permit.

This national visa practice applies for the main purposes of work (**Austria**,[28] **Germany**, **Greece**, **Italy**, **Lithuania**, **Sweden**), study (**Germany**, **Greece**, **Italy**, **Lithuania**) and family reasons (**Belgium**, **Germany**, **Greece**, **Italy**, **Sweden**). In some Member States, the practice applies to visas issued for other purposes, such as humanitarian/political grounds (**Germany**), research (**Greece**), medical treatment (**Italy**), sports and journalism (**Lithuania**).

[27] In **Austria**, this practice is only exceptionally the case in relation to the "job seeker visa". In this case, the person cannot apply for the residence permit directly, additional conditions have to be fulfilled.

[28] In **Austria**, this practice is only applicable to highly-skilled workers looking for a job. The admission conditions are fully checked once the applicant has found suitable employment.

## Table 4: National type "D" visas in country of origin, residence permit in country of destination (Practice B.2)

| Member State | Description |
|---|---|
| | **Primary Practice** |
| **Bulgaria** | **All purposes**<br>Visa application in diplomatic or consular representation of country of residence of third-country nationals. Residence permit application in Bulgaria.<br>National type "D" visa issued for long-term or permanent establishment in the Member States. Visa is valid for six months issued to a third-country national who wishes to establish long-term or permanently. |
| **France** | **All purposes**<br>Visa permits entry to France. Within two months of entering French territory, application for a residence permit must be made to the Prefecture.<br>**DROM and CTOM visa**: DROM (Departements de Regions d'Outre-mer) visas for overseas departments and regions and CTOM (Collective Territoriales d'Outre-mer) visas for overseas territories. |
| **Germany** | **Study, Work, Family, Humanitarian/Political grounds**<br>Visa issued for three months.<br>Residence permit issued in Member State for any additional periods of stay. Holder of visa should report to local authority after entering Member State during the validity of the visa to apply for a residence permit.<br>The same provisions that govern the granting of a residence permit, a settlement permit or a long-term residence permit are applied for the granting of a visa. |
| **Greece** | **Work: dependent work, independent work** (general managers, managers and deputy managers, coaches, athletes etc.)**, independent economic activity, Specific reasons** (e.g.: study, vocational training, researchers), **Family reasons.**<br>National type "D" Visa issued for annual duration and is required to obtain a residence permit after the entry to Member State |
| **Ireland** | **All purposes**<br>Visa required to obtain a residence permit. Visa conditions checked in country of origin. Admission conditions checked at border.<br>National type "D" visas for stays of more than 3 months in a 12 month period are granted for various reasons: Join Family; Employment / ICT; Scientific Researcher, Training, Study, Research; Medical Treatment, Religious or Lay Volunteer. |
| **Italy** | **Work (including self-employment, business), Study, Family, Medical Treatment**<br>Visa required to apply for a residence permit which is issued after entry to Member State. |
| **Lithuania** | **Work, study, other (sports, journalism)**<br>Single entry national type "D" visa is issued to a third-country national who has been granted a temporary residence permit. Residence permit is issued after arrival to Member State.<br>**Multi entry national type "D" visa** is issued to third country national who wish to stay in the country for up to 12 months. Then a residence permit is not required. A residence permit is required if a third country national intends to stay for more than 12 months. A person can apply for this in Lithuania. |
| **Luxembourg** | **Work (highly-skilled, salaried, independent, transferred and posted), Study (pupils and students), Family reunification, private reasons (sufficient resources, humanitarian reasons, personal or family links that do not account as family reunification), Research, Sportsmen.**<br>Residence permit application must be submitted first. Once the authorisation of stay is submitted, applicant has 90 days to obtain national type "D" visa. |
| **Netherlands** | **All purposes**<br>National type "D" visas are called Regular Provisional Residence Permit (MVV) which grants the holder of the visa entry into the Member State, enabling him to apply for a residence permit for the intended stay of longer than three months. The same conditions are used as that for granting a residence permit. *Future Entry and Residence Procedure will fall under this practice.* |
| | **Secondary Practice** |
| **Austria** | **Work (highly skilled).**<br>National type "D" visas issued for highly-skilled workers arriving in the Member State to look for a job. Admission conditions are not checked upon arrival but when the applicant has found a suitable job. A Red-White-Red Card is then issued. |
| **Belgium** | **Family**<br>Application for residence permit is done on the territory. National type "D" visas valid from three to a maximum of six months. Visa is converted into a residence permit within this term. After issuance of the residence permit, checks are made to determine whether the relationship is legitimate. |
| **Finland** | **Family**<br>Family members of Finnish citizens are allowed to come to Finland with a type "C" visa to wait for their residence permit application to be processed. |
| **Poland** | Visa application in consulate abroad. Residence permit application submitted in Member State upon arrival. |
| **Slovenia** | In some cases, a visa is issued for entry into Member State only. Application for residence permit submitted in Member State before expiry of national type "D" visa at administrative unit. |
| **Sweden** | **Employment, Family** in exceptional circumstances. |

The validity period for the national type "D" visas differs from one Member State to another. In **Ireland** visas are a pre-entry clearance only and in order to enter, permission must be granted by an Immigration Officer at the border; a residence permit may be issued subsequently if the intended stay is longer than three months. In **Belgium**, **Italy**, and the **Netherlands**, the national type "D" visa is merely used as a permit to enter, with the formal residence permit application (and issuance) occurring as soon as the third-country national enters. However, in other Member States (**Austria**,[29] **Bulgaria**, **France**, **Germany**, **Greece**, **Lithuania**, **Poland**, **Slovenia**), visa holders only need to submit their residence permit application during the validity period of the visa and not immediately upon arrival. For example, in **Germany**, the visa is issued for three months, with the holder of the visa being obliged to report to the local authority during this period in order to apply for a residence permit. In some instances, visas can be issued for shorter periods. In **France**, the national type "D" visa allows temporary residence until a residence permit application is submitted, within two months of entry. Specific DROM (*Départements de Régions d'Outre-mer*) and CTOM (*Collective Territoriales d'Outre-mer*) visas exist to attract migrants from overseas *Départments* and regions into France.

Although **Sweden** does not usually issue national type "D" visas for the purpose of migration, this practice is applied to third-country nationals who have entered on a national type "D" visa or a type "C" visa and who subsequently find a job, provided that the employer can prove that the applicant's presence is indispensable during the time it would take them to return to his country of origin in order to apply for a work permit. Third-country nationals entering Sweden on a type "C" visa can also apply for a residence permit upon entry if they wish to join an EU/EEA family member.

### *2.3.3 Group C: Member States who do not use visas to facilitate legal migration*

Table 5 below provides an overview of the Member States which apply the practice (either primary or secondary) of issuing a residence permit directly in the country of origin.

In **Estonia**, in the majority of cases, the residence permit is obtained directly in the country of origin, for the purposes of family, study, work and "grave public interest." A visa is not a prerequisite to enter the Member State, with a temporary residence permit issued instead.

In **Finland**, visas are not used to facilitate legal migration, with residence permits issued for migration reasons. In **Sweden**, third-country nationals apply for a residence permit within their country of origin.[30] National type "D" visas are rather treated like type "C" visas, issued for time-limited visits and for specific circumstances, such as close relations wishing to stay in the country with their family for more than three months or certain business visits. For longer-term stays, residence permits are normally directly issued.

Some Member States (**Hungary**, **Poland**, **Slovenia**) use the practice of issuing residence permits directly in the country of origin as a secondary practice. This practice applies to the issuance of national type "D" visas for the purpose of work, study and family (**Slovenia**). In addition, residence permits can be obtained directly in the country of origin for "visa-free" nationals and for research (**Hungary**).

In some Member States, the direct issuance of the residence permits appears to be linked to the application of stricter controls during the three main stages of the visa procedure for third-country nationals entering the territory, particularly for family reasons.

[29] In **Austria**, this applies only for family members of an Austria national or researchers and their family members.

[30] **Sweden** only uses national type "D" visas in exceptional circumstances and hence considers visa policy and migration policy two clearly separate issues.

**Table 5: Residence permit in country of origin (Practice C)**

| Member State | Visa |
|---|---|
| **Primary Practice** | |
| **Estonia** | **Family, Study, Work, "Grave public interest"**<br>Residence permit application in country of origin through foreign representation.<br>Visa not a prerequisite for obtaining residence permit.<br>Temporary residence permit issued for entry to Member State.<br>After the Estonian foreign representation has identified the third-country national, the application is forwarded to the Border Guard where it is then processed. |
| **Finland** | **All legal migration**<br>Visas are not used to facilitate migration to Finland. |
| **Sweden** | **Family, Work, Study (all legal migration)**<br>Residence permit application in country of origin.<br>National type "D" visas are rarely used and the fundamental idea behind them is the same as with Schengen visas, they are issued for time limited visits, not for immigration. |
| **Secondary Practice** | |
| **Hungary** | **Visa-free third country nationals and researchers**<br>Residence permit application in country or origin. |
| **Poland** | Residence permit obtained in country of origin.<br>Travel to Poland without a visa where application for official residence card submitted.<br>Visa is not a prerequisite for entry. |

### *2.3.4 Group D: Other visa practices*

In addition to the above, **Austria**, **Greece**, **Latvia**, **Lithuania**, **Slovak Republic** and **Slovenia** implement alternative practices for issuing visas which are outlined here and summarised also in Table 6 overleaf.

In **Austria**, **Latvia**, **Lithuania** and **Slovenia**, a residence permit is first applied for in the country of origin, with a national type "D" visa only granted after the third-country national receives a notification from the competent residence and settlement authorities that the residence permit is issued. The visa is not considered to be a prerequisite for the residence permit, but the applicant has to hold a visa to enter the Member State legally in order to collect their residence permit.

In most cases in the **Slovak Republic**, national type "D" visas serve to take over the already issued residence permit (when a person needs a visa to enter the Member States). National type "D" visas are issued also for three other purposes: if it is in the interest of the Slovak Republic; to fulfil the commitments arising from international agreements; and to an asylum-holder's family members and family members of a person under subsidiary protection.

In addition, in **Latvia**, several categories of third-country nationals (for example, researchers, composers, musicians, choreographers, sportspersons, minor children) are allowed to submit in Latvia all necessary documents required to apply for residence permit, if they are staying in Latvia with a valid type "C" visa.

In **Greece**, type "C" visas are issued to family members of a Greek, EU or EEA national as well as to parents of Greek minors. This visa allows the third-country national to enter the Schengen Member State, with the holders entitled to request a residence card if they wish to stay in the territory for more than three months. The procedure for obtaining a type "C" visa is simplified in the sense that these third-country national applicants are prioritised with no other supporting documents required to be submitted.

**Table 6: Other Visa Practices**

| Member State | Admission purpose | Description |
|---|---|---|
| **Greece** | Family | Type "C" visas are issued to family members of a Greek, EU, EEA national as well as to parents of Greek Minors. The visa allows the third-country national to enter the Schengen Member State with the holders entitled to request a residence card if they wish to stay in the territory for more than three months. These third-country national applicants are prioritised with no other supporting documents required to be submitted. |
| **Austria**<br>**Slovenia**<br>**Latvia**<br>**Lithuania** | | A residence permit is first applied for in the country of origin, with a visa only granted after the third-country national receives a notification from the competent residence and settlement authorities that the residence permit is issued. The visa is not considered to be a prerequisite for the residence permit, but the applicant has to hold a visa to enter the Member State legally in order to collect their residence permit. |
| **Latvia** | Researchers<br>Sportspeople<br>Musicians<br>Minors<br>Repatriates, etc.[31] | These third-country nationals are allowed to submit in Latvia all necessary documents required to apply for a residence permit, if those third-country nationals are staying in Latvia with a valid type "C" visa.<br>The documents for receipt of a visa in relation to the adopted decision on issuing a residence permit are revised by missions abroad. |
| **Slovak Republic** | | In most cases national type "D" visas serve to take over the already issued residence permit (when a person needs a visa to enter the country).<br>National type "D" visas are issued also for three other purposes: if it is in the interest of the Slovak Republic, to fulfil the commitments arising from international agreements and to an asylum-holder's family members and family members of a person under subsidiary protection.<br>National type "D" visas and short-stay visas are currently issued as separate authorisations for short-term or long-term residence, whereas the purpose of such visas largely differs from residence permits. |

## 2.4 Stages of the Visa Procedure

This Section provides an overview of the general procedures followed in Member States during the three main stages of the visa issuing procedure: Responsible authorities during the visa procedure (Section 2.4.1), Application stage (Section 2.4.2), Examination stage (Section 2.4.3) and Entry, Stay and Exit (Section 2.4.4).

### *2.4.1 Responsible authorities during the visa procedure*

The authorities responsible during the different visa procedures in the Member States vary considerably. Annex 2 below provides an overview of the responsible authorities during the stages of application and examination as well as during entry and exit.

With regard to the application stage, most Member States involve similar authorities. Applications for a national type "D" visa are normally received by diplomatic and consular authorities (**Austria**, **Belgium**, **Bulgaria**, **Germany**, **Estonia**, **Greece**, **France**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**,[32] **Malta**, **Netherlands**, **Poland**, **Sweden**, **Slovenia**, **Slovak Republic**, **United Kingdom**). In **Bulgaria**, border guards and custom control authorities are responsible for receiving applications and forwarding them to the responsible authority for examination. In the **Netherlands**, the Immigration and Naturalisation Service (IND) is responsible during the MVV advisory procedures. Many Member States outsource receipt of national type "D" visa applications

[31] All categories are listed in Article 4 of the Cabinet of Ministers Regulations No. 564 "Regulations on Residence permits" of 21 June 2012

[32] **Luxembourg** has very few diplomatic missions abroad and is represented abroad by other Member States: **Belgium**, **Netherlands**, **Germany**, **France**, **Portugal**, **Spain**, **Hungary** and **Slovenia**. Also the analysis of the authorisation of stay is made by the Directorate of Immigration of the Ministry of Foreign Affairs under the supervision of the Ministry of Immigration. See Annex 3.

to external service providers (**Austria**, **Belgium**, **Estonia**, **France**, **Ireland**, **Italy**, **Malta**, **United Kingdom**). For example, the United Kingdom Border Agency has 250 visa application centres worldwide of which 101 are run by commercial partners, namely Facilitation Services (VFS) Global and World Bridge Service. Similarly, **Estonia** cooperates with an external service provider "Pony Express," in Kiev, Moscow and six more cities of North-West Russia. In **France**, external service providers vary according to the embassies/consulates. **Ireland** has several Visa Application Centres, run by VFS in India, Nepal, Ghana and Nigeria where applications for Irish visas are made. VFS also performs administrative tasks such as collection of fees, posting documents, collecting fingerprints and checking photographs and further carries out basic checks on documents. In order to safeguard against corruption, VFS staff have no knowledge of the fingerprint check outcome or the outcome of the visa application. **Italy** also outsources collection of national type "D" visa applications in some third countries for a limited amount of time and periodically puts this service out for tender.

Most Member States involve similar authorities during the examination stage, ranging from Ministries of Foreign Affairs, including diplomatic and consular authorities (**Austria**, **Bulgaria**, **Germany**, **Greece**, **Finland**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Malta**, **Netherlands**, **Poland**, **Sweden**, **Slovenia**, **Slovak Republic**); to Ministries of Interior (**Estonia**, **France**, **Malta**, **Netherlands**, **Poland**, **Slovenia**, **Slovak Republic**);Asylum and Migration authorities or agencies (**Belgium**, **Ireland**, **Latvia**, **Sweden**, **United Kingdom**); Intelligence Services (**Germany**, **Greece**, **Finland**, **Poland**, **Slovak Republic**); Police (**Estonia**, **Latvia**, **Malta**, **Slovenia**, **Slovak Republic**); Border Guard (**Finland**, **Lithuania**, **Poland**, **Slovenia**); and administrative authorities including employment agencies (**Austria**, **Germany Lithuania Netherlands**).

In **France** different authorities are involved, depending on the type of national type "D" visa applied for. In addition to the visa department of the Ministry of Interior, administrative authorities may include, for example, the French Office for Immigration and Integration (OFII) for cases of family reunification and the Regional Directorate for business, competition, consumer affairs, labour and employment (DIRECCTE) for cases of economic migration. **France** further consults central French authorities in applications lodged by specific "sensitive" nationalities.

In some Member States, border guards and custom authorities (including in certain instances coast guards) control entry of visa holders and are subsequently responsible for the legality of the visa holders' stay. **Ireland** constitutes a specific instance in which the immigration officer has ultimate authority to decide to grant "leave" to enter Irish territory. Following leave to enter, applicants are required to register at the Garda National Immigration Bureau if they intend to stay longer than 3 months. In the **Netherlands**, the Royal Netherlands Marechaussee carries out checks on the issued visa and the Aliens police subsequently monitor stay. In **Lithuania**, Border Guards control the entry of third-country nationals, with police coordinating the control of legal stay. In the **United Kingdom**, the security of the border is a joint operation between the UK Border Agency, Ports Policing, and the Security Service (MI5).

Authorities competent to withdraw, extend, or annul/revoke visas vary between Member States from the Ministry of Foreign Affairs, Ministry of Interior, immigration authorities/agencies and, in certain cases, the Police and Border Guard (**Estonia**). In **Austria**, the Aliens' Police is the competent authority. In the **Netherlands**, extension of a visa and application for a residence permit implies involvement of the IND (part of the Ministry of Interior and Kingdom Relations). In **Sweden**, the Swedish Migration Board constitutes the responsible authority for extension or annulment/revocation of visas. In the **Slovak Republic**, the Police and the Foreign Missions have the possibility of revoking a visa.

In **Poland**, a removal decision can be issued upon request of the Minister for Defence, the Head of the Internal Security Agency, the Head of the Foreign Intelligence Agency, the Commander-in-Chief of the Border Guard, the Commander-in-Chief of the Police, the Chief of the Border Guard

Unit, the Police Chief, the commanding officer of the Border Guard Post or the Customs Service authority. In the **Netherlands**, the Repatriation and Departure service may be involved in the return stage.

### *2.4.2 Application stage*

This Section provides an overview of the documents and evidence required in the Member States during the visa application stage. It is important to note that the procedures followed in the Member States in relation to national "D" visas are similar to those followed for the application of "C" visas in Schengen Member States.[33]

Many Member States apply similar requirements with regard to documentation during the application stage. Most Member States require the applicant to present a travel document (**Austria**, **Belgium**, **Estonia**, **Finland**, **France**, **Germany**, **Greece**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Poland**, **Slovak Republic**, **Sweden**), proof of payment of the visa fee[34] (**Austria**, **Estonia**, **Finland**, **France**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Malta**, **Netherlands**, **Poland**, **Slovak Republic**, **Slovenia**, **Sweden**, **United Kingdom**) and supporting documents (**Austria**, **Belgium**, **Bulgaria**, **Estonia**, **Finland**, **Germany**, **Greece**, **Italy**, **Ireland**, **Latvia**, **Lithuania**, **Luxembourg**, **Malta**, **Poland**, **Slovak Republic**, **United Kingdom**). Supporting documents differ per Member State and can include various elements, depending on the purpose of the visa applied for. The supporting documents serve to indicate the purpose of the journey and can, as such, include hotel reservations, return ticket, proof of sufficient means of subsistence or other information indicating intention to leave the territory before expiry of the visa. For example, in **Austria**, supporting documents may include proof of current employment, invitation letter and hotel reservation.

With regard to insurance, most Member States (**Austria**, **Belgium**, **Bulgaria**, **Estonia**, **Greece**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Poland**, **Slovak Republic**) require proof of health care insurance. **Austria** requires accident insurance, in addition to health care insurance. In **Finland**, proof of travel insurance is required though no specific requirement is imposed for health care insurance. In **Ireland**, proof of medical and travel insurance is not obligatory in all categories of visa applications, but is recommended.

**Germany**, **Netherlands** and the **United Kingdom** additionally require visa applicants to be supported by a sponsor. This requirement is considered optional in **Austria**, **Germany**, and the **Netherlands**, while in the **United Kingdom** it depends on the type of visa applied for. The **Netherlands** further specifies that a "pre-check" is performed on the MVV (long-stay national type "D" visa) to identify inadequate applications at an early stage. **Lithuania** requires a letter from the inviting party with an obligation to provide adequate living space and compensate expulsion costs if the visa holder does not depart after the validity of visa.

In addition to the most common requirements, some Member States have other documentary requirements in place. These include: proof that no other reasons for refusal of application exist (**Austria**); certificate of applicant's good conduct (**Belgium**); copy of the applicant's criminal record (**Greece**); medical certificate indicating that the applicant is free of any diseases (**Greece**, **Luxembourg**); proof of address for stay in the Member State (**Latvia**, **Luxembourg**[35]); and biometric data (**Lithuania**, **Malta**, **United Kingdom**). In addition, **Ireland** requires all visa applicants to provide details of any family members residing there (except those to whom Directive

[33] The Member States listed in the sections below relate to those who referred to procedures and practices relating to national "D" visas.

[34] In the Member States, differences exist in relation to the embassies used. In some embassies the visa fee is collected in cash when lodging the application, other embassies require that the fee is paid beforehand to the embassy's bank account.

[35] In **Luxembourg**, this proof is needed for subsequently issuing a residence permit.

2004/38/EC applies) as well as to sign a written undertaking that they will observe the conditions of the visa. In a limited number of family cases visa applicants may be invited to provide a DNA sample.

**Austria**, **France**, **Belgium**, **Hungary**, **Italy**, **Ireland**, **Lithuania**, **Luxembourg**, **Netherlands**, **Poland**, **Slovak Republic** and the **United Kingdom** apply further additional documentary requirements depending on the purpose of intended stay. For example, in **Belgium**, a national type "D" visa application for family reunification requires the applicant to present proof of adequate housing, civil registry documents and proof of longstanding relationships. In **Austria**, additional requirements are applied for highly qualified third-country nationals who would like to come to Austria to seek a job. This is also the case in **Luxembourg**, where highly qualified and salaried workers must have a contract signed and must have passed the labour market test. Moreover, in **France**, a visa for family reunification necessitates proof of accommodation, e.g. hosting certificate validated by the mayor of the commune where the host lives. With regard to seasonal employment, **Hungary** requires the applicant to present a letter of invitation as well as a seasonal work permit issued by the competent labour centre which specifically defines the exact duration and location where the seasonal work will take place. In **Italy** a visa for the purpose of business requires, in addition to the basic documentary evidence, proof of the applicant's status of "business person," proof of sufficient means, as well as a "letter of invitation" by the Italian company. The **United Kingdom** requires applicants for a visa for skilled workers (Tier 2 of the Points-Based System) and temporary workers (Tier 5 of the Points-Based System) to provide a Certificate of Sponsorship from a sponsor licensed by the UK Border Agency.

With regard to student visas, **Ireland** and **Lithuania** requires a letter of acceptance from a recognised college, evidence that college fees have been paid in full, private medical insurance covering the entire duration of the stay, and evidence of the applicant's intention to return to country of permanent residence. The **United Kingdom** requires students applying through Tier 4 of the Points-Based System to provide a Confirmation of Acceptance for Study.

In the **Netherlands**, depending on the purpose of residence, third-country nationals aged from 18 to 65 years who are subject to the MVV requirement[36] must first pass a civic integration examination. This requirement is mainly meant for persons wishing to enter the Netherlands for family reunification or family formation and serves to indicate that the applicant has basic knowledge of the Dutch language and Dutch society.

**Hungary** offers third-country nationals the possibility to apply for preferential national type "D" visas. When applying for such a visa, applicants must in addition to the general documentary requirements, be able to demonstrate that the underlying purpose of the visa includes protection and enhancement of Hungarian language skills, preservation of national and cultural identity, study and education, or strengthening the relationship with family members living in Hungary excluding family reunification.

### *2.4.3 Examination Stage*

This Section provides an overview of the general procedure followed in the Member States during the visa examination stage[37] and Table 7[38] overleaf indicates that Member States have many similar

[36] The Regular Provision Residence Permit (MVV) is a condition that must be satisfied before the third-country national is allowed to migrate to the **Netherlands**. The requirement for the third-country national to apply for an MVV before travelling to the Netherlands enables the Dutch authorities to examine whether the third-country national complies with all entry requirements.

[37] As with the application stage, many of the general procedures followed are similar to those applied when examining applications for type "C" visas.

[38] The measures outlined in this Table are not an exhaustive list and only include those most commonly cited by Member States.

procedures in place during the examination stage. In addition to the performance of admissibility checks and the verification of documentation, risk assessments are undertaken in the Member States. Document verification mainly consists of verifying the validity of the travel document, the applicant's justification, whether or not the applicant has provided proof of sufficient financial means, and whether the applicant has adequate and valid travel/medical insurance. Different practices are applied during risk assessment, ranging from personal interviews, consultation of national authorities or private companies, to security checks to assess whether the applicant presents a risk of illegal immigration or a risk to the security of the Member States. Security checks sometimes include the sharing of intelligence (as is the case with, for example, **Ireland** and **United Kingdom**). **France** and **Lithuania** consult central authorities of other Member States.

**Table 7: Procedures used during the Examination stage**[39]

| | National Database | Security Checks[40] | Interview | Consultation within Member States[41] | Consultation other Member States |
|---|---|---|---|---|---|
| **Austria** | √ | √ | √ | √ | |
| **Belgium** | | √ | | | |
| **Bulgaria** | | √ | | | |
| **Germany** | √ | √ | √ (if deemed necessary) | √ | |
| **Estonia** | √ | √ | | | |
| **Greece** | | √ | √ | √ | |
| **Finland** | √ | √ | √ (if deemed necessary) | √ (if deemed necessary) | √ (if deemed necessary) |
| **France** | | | | √ | √ |
| **Hungary** | | | | | |
| **Ireland** | √ | √ if deemed necessary) | √ (if deemed necessary) | √ if deemed necessary) | √ if deemed necessary) |
| **Italy** | | √ | √ | | |
| **Latvia** | √ | √ | √ | √ | √ |
| **Lithuania** | √ | √ | √ (if deemed necessary) | √(if deemed necessary) | √(if deemed necessary) |
| **Luxembourg** | √ | √ | √ | √ | |
| **Malta** | | √ | √ | √ | |
| **Netherlands** | √ | √ | √ | | |
| **Poland** | √ | √ | √ | √ | √ |
| **Sweden** | | | √ | √ | |
| **Slovenia** | √ | √ | √ | | |
| **Slovak Republic** | √ | √ | √ | √ (if deemed necessary) | √(if deemed necessary) |
| **United Kingdom** | √ | | √ (if deemed necessary) | | |

Member States also carry out checks regarding the applicants' credibility, the suitability of the applicant's profile to the particular travel purpose, and the likelihood of the applicant observing the terms and conditions of the visa, including returning home at the end of their stay. It is also

[39] The measures outlined in this Table are not an exhaustive list and only include those most commonly cited by Member States.
[40] The potential threat posed by that applicant to the public order of internal security of that State
[41] Consultation between other administrative authorities within Member States

examined whether issuing a visa to the concerned person would be consistent with overall entry conditions. Procedures in Member States also vary during the examination stage depending on the purpose of entry. For example, in **Sweden**, if a third-country national applies for a family reunification visa, a check on sponsoring is carried out and the family ties are investigated. In difficult cases, visa applications are forwarded to the Swedish Migration Board.

Certain Member States apply supplementary procedures. In **Lithuania**, inspections of the inviting party can be conducted by the police, when deemed necessary. The **Netherlands** performs a so-called "public order check" which is supplementary to the security checks and includes a signed statement by the third-country national concerning his or her criminal records. The third-country national must furthermore sign a Declaration of Intent stating that he is willing to undergo a Tuberculosis test after arrival in the Member State.

### *2.4.4 Entry/Exit Procedures*

This Section provides an overview of the procedures undertaken by Member States at entry and exit stage.

#### *2.4.4.1. Measures undertaken at borders*

Third-country nationals granted a valid national type "D" visa for migration purposes will be able to enter at designated border crossing points provided they present a valid travel document, already required for the application process, as well as a residence title, e.g. visa. State Border Guards and/or the Police will normally verify whether the third-country national complies with specified conditions and examine whether there are grounds for refusal of entry. Additionally, an examination on the purpose of the stay is performed, and information is, in certain instances, cross-checked with information entered into a Member State's national database (e.g. **Latvia**).

In the **Slovak Republic**, the embassies and consulates issuing the visa can determine which border crossing point the third-country national must use to enter. In **Sweden**, the border guards may perform closer inspections, e.g. examination of references, travel money, medical insurance etc. In the **United Kingdom**, Border Force Officers can hold a third-country national for further questioning in cases where they have concerns, either to perform a baggage search or to undertake a full investigation. Border Force Officers may also, where technology allows, check biometrics of those held and compare these against the visa application. In addition, Advance Passenger Information and Passenger Name Records are checked against 'watch lists' and targeting rules, and details of those passengers who are subject to further scrutiny are provided to UK Border Agency staff and Police Officers.

Border control guards are allowed to refuse entry. The Border guards in **Poland** carry responsibility to verify the decision for initial issuing of the visa. In **Ireland**, immigration officers are responsible for checking visas and deciding whether to admit the person and further decide on the duration of the stay and on the date by which the migrant concerned must register with the Garda National Immigration Bureau. Immigration officers are more restricted in refusing leave to land with regard to EU citizens and non-EU family members of EU citizens. Case law indicates that they may only do so in cases of severe diseases, when there is a danger for public security or when personal conduct has been contrary to public policy.

In case of refusal of entry, several Member States necessitate written explanation including specification of the reasons for refusal of national type "D" visa (**Austria**, **Germany**, **United Kingdom**). In **Austria**, information on the invalidity of the visa must be included in the travel document and in the **United Kingdom**, refusal necessitates authorisation by a Chief Immigration Officer.

#### *2.4.4.2. Annulment/Revocation*

Member States withdraw a visa when it becomes evident that conditions for issuing the visa are no longer met, especially if there are serious grounds for believing that the visa was fraudulently

obtained. **Lithuania** specifies that a visa is annulled if it becomes known that the third-country-national, when applying for a visa, made factual statements which were actually untrue. **Austria** further clarifies that a visa becomes non-relevant if the visa holder is issued an additional visa or residence permit with overlapping validity. A visa is withdrawn when a visa holder is granted European citizenship. **Austria** and the **Slovak Republic** consider visas invalid if an expulsion order is issued against the visa holder.

In **Bulgaria**, the Ministry of Foreign Affairs and diplomatic and consular authorities may withdraw visas to reduce the number of authorised entries. In **Latvia**, officials of the State Border Guard have the power to annul or revoke an issued visa not only at the border crossing point, but anywhere on Latvian territory.

#### *2.4.4.3. Monitoring exit*

Few Member States (**Belgium**, **Italy**, **Sweden**, **United Kingdom**[42]) record the exit of a visa holder. **Belgium** requires national type "D" visa holders to notify the municipality in case they are leaving, which can be done no later than the day before departure. However, when the national authorities find that the third-country national has overstayed the period of validity of the national type "D" visa, a fine will be imposed. In **Sweden**, when a visa deadline is not respected, a record of overstay will be stored in the national database to which the Swedish Migration Board has access too. In **Italy**, following exit, if the migrant notifies his/her arrival to the Italian Embassy in his/her home country, he/she will more easily obtain a further visa in the future.

### *2.4.5 Right of appeal and judicial review*

Right of appeal and judicial review exist in the Member States. As outlined in Section 5 below, Member States' national type "D" visa policy in relation to appeal and judicial review has been influenced somewhat by the provisions in the Visa Code relating to short-stay type "C" visas.

After a refusal, most Member States allow visa applicants to appeal a negative decision. In cases of negative decisions, refusals are usually justified in writing, allowing for administrative or judicial review. Differences exist between Member States with regard to the type of bodies to which negative visa decisions may be appealed to, ranging from immigration authorities to administrative and judicial courts. **Austria** does not generally allow the applicant a right to appeal, but does grant, in exceptional cases, an extraordinary appeal to the Constitutional Court or the Administrative High Court, if made within six weeks after the negative decision has been notified and signed by a lawyer. **France**, **Ireland** and **Luxembourg** provide for administrative appeals as well as judicial review. The **Slovak Republic** solely allows beneficiaries of international and subsidiary protection to appeal negative decisions. **Finland** and **Sweden**, instead of allowing an appeal, stipulate that visa decisions may be reconsidered. In **Finland**, for example, the Aliens Act states that a visa decision is not subject to appeal but a rectification can be requested. However, this refers to type "C" visas only. In **Sweden,** refusals for national type "D" visas can be reconsidered but not appealed against.

During entry/stay, many Member States (**Austria**, **France**, **Lithuania**, **Poland**, **Sweden**, **Slovenia**, **Slovak Republic**) provide for judicial review. For example, **Austria** allows appeals to be filed in case a visa was declared invalid at a border crossing.[43] Appeals can in such cases be filed against the Independent Administrative Senates. In **France**, third-country nationals may apply for judicial review before the administrative court to contest the refusal of entry, the requirement to leave French territory and the designated country to which he or she is required to return. In **Lithuania**, all negative decisions under the *Law on the Legal Status of Aliens* may be appealed to the appropriate administrative court. **Poland** allows third-country nationals to appeal decisions taken by

[42] Some exit checks are conducted through e-Borders. The UK Border Agency has committed to reintroducing exit checks for all passengers by 2015.

[43] A visa is declared invalid if facts become known or subsequent events occur which would justify non-issuance.

Border Guards to the Commander-in-Chief of the Border Guard. In **Slovenia**, third-country nationals can file a complaint to an administrative court against the refusal of entry within eight days. The **Slovak Republic** only allows family members of beneficiaries of international or subsidiary protection the possibility of judicial review during entry/stay stage. **Sweden** allows for appeals against revocation or annulment, however, not against refusal of an application for extension. **Ireland** stipulates that refusal to enter Irish territory may not be appealed, but may be judicially reviewed.

**Latvia** does not provide for judicial review when third-country nationals are refused entry, with officials not having to provide clarifications concerning the grounds of annulment or revocation of national type "D" visas.

In the **United Kingdom**, appeal procedures depend upon the type of visa applied for. Certain categories of visa applications, such as family visits and settlement, enjoy full rights of appeal, whereas other categories of applications solely limited rights of appeal. For example, refused applicants for a visa under the PBS do not have a full right of appeal but they can apply for an administrative review.

## 3. VISA POLICY AND PRACTICES FOR PREVENTING IRREGULAR MIGRATION[44]

This Section provides an overview of visa policy and practices for preventing irregular migration.[45] Firstly, a statistical overview of third-country nationals refused entry at the external borders is provided, examining the link existing between refusals and falsified visas (Section 3.1) since the reasons for refusal of third-country nationals' entry to the EU, including the presentation of a false visa or residence permit, as well as the absence of a valid visa or residence permit can demonstrate the link existing, in some instances, between visas and preventing irregular migration. The policy and practices existing in the Member States in relation to preventing irregular migration are then described in Section 3.2.

### 3.1 Refusal of entry: A Statistical Overview

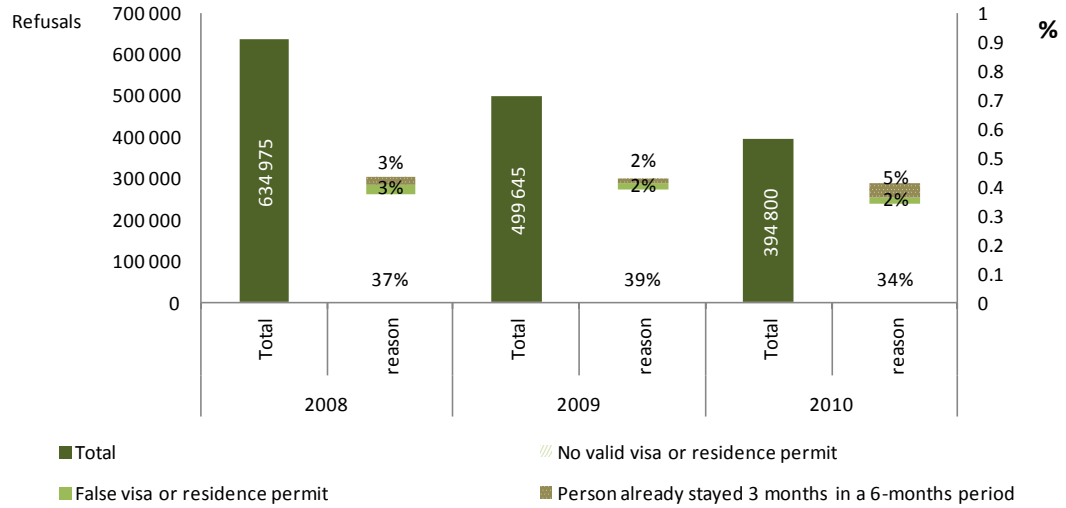
Figure 5 presents the number of third-country nationals refused entry at the external border of the EU for these reasons between 2008 and 2010.[46] The number of third-country nationals refused entry between 2008 and 2010 has significantly decreased from around 635 000 (2008) to around 390 000 (2010). The proportion of third-country nationals refused entry due to having no valid visa or residence permit has also slightly decreased between 2009 and 2010 from 39% to 34%. The proportion of third-country nationals refused entry due to having a false visa or residence permit has remained around the same, with this category representing 2% of the overall total refusals in 2009 and 2010.

[44] Further details on measures to reduce irregular migration are given in the EMN study entitled "Practical measures for reducing irregular migration" available from http://www.emn.europa.eu under "EMN Studies".

[45] Please note that for some Member States (e.g. **Italy**), current policies tend not to distinguish between facilitating legal migration and preventing irregular flows since both objectives are pursued through the same measures.

[46] The reasons presented in this figure do not represent the total reasons provided in Eurostat data but rather the reasons relevant for this Study. The proportions by reason do not therefore amount to 100%. The additional reasons are the following: No sufficient means of subsistence; no valid travel document(s); person considered to be a public threat; purpose and conditions of stay not justified; an alert has been issued; false travel document.

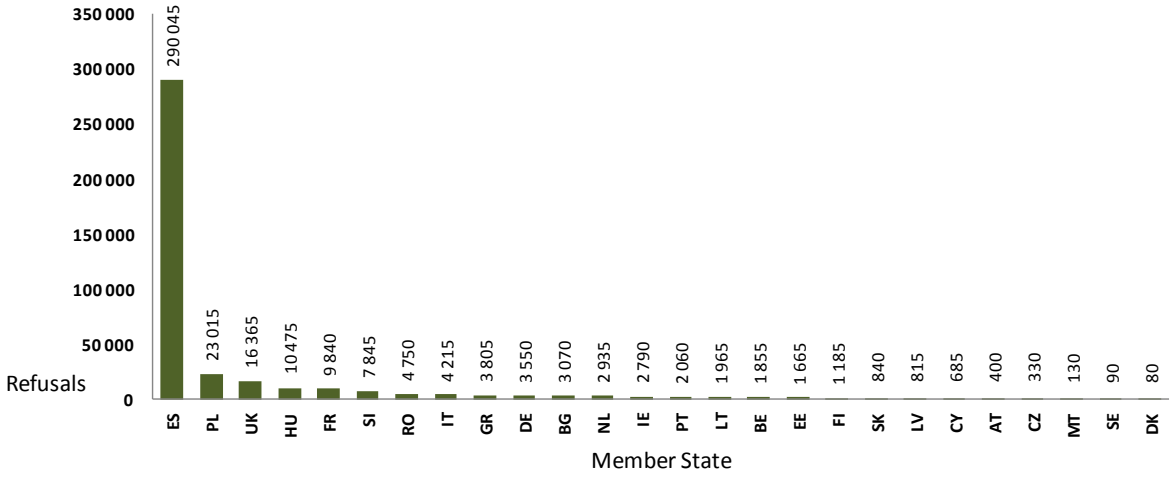
**Figure 5: Third-country nationals refused entry at the external borders, by reason, 2008-2010**




*Source: Eurostat*

Figure 6 presents the third-country nationals refused entry at the external borders in 2010, by total and by Member State.[47]

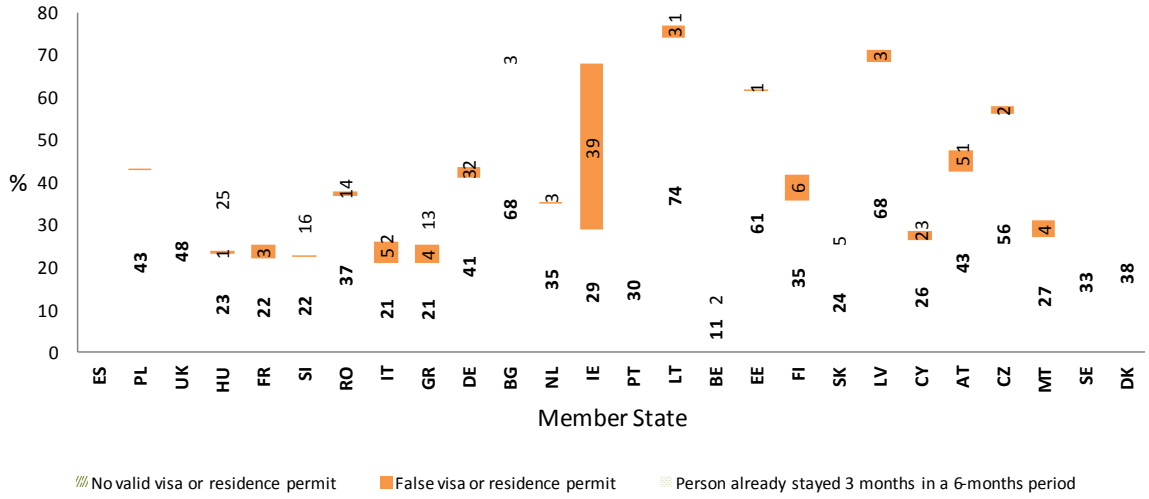
**Figure 6: Third-country nationals refused entry at the external borders by total and by Member State, 2010**




*Source: Eurostat *no data for Luxembourg*
*Note: Spain does not record reasons for refusals in 97% of cases.*

[47] The reasons presented in this figure do not represent the total reasons provided in Eurostat data but rather the reasons relevant for this Study. The proportions by reason do not therefore amount to 100%. The additional reasons are the following: No sufficient means of subsistence; no valid travel document(s); person considered to be a public threat; purpose and conditions of stay not justified; an alert has been issued; false travel document.

**Figure 7: Third-country nationals refused entry at the external borders, by reason (share of total) and by Member State, 2010**




The number of third-country nationals refused entry to the Member States in 2010 ranged from around 290 000 (Spain)[48] to 80 (Denmark). **Hungary**, **Poland**, Spain and the **United Kingdom** had the highest number of refusals in 2010. In **Estonia** and **Latvia**, the number of third-country nationals refused entry due to having no valid visa or residence permit represented over three-fifths of the total number of refusals in 2010. In **Lithuania**, almost three quarters of third-country nationals were refused entry for this reason. Only a small number proportion of third-country nationals were refused entry due to the presentation of a false visa or residence permit in **Austria**, **Cyprus**, **Czech Republic**, **Finland**, **France**, **Germany**, **Greece**, **Italy**, **Latvia**, **Lithuania**, **Malta**, Romania and **Slovenia.** In **Ireland**, however, 39% of the 2 790 refusals in 2010 were due to third-country nationals presenting false visas or residence permits.

### 3.2 Visa policy and practice to prevent irregular migration

National visa policy aims to act as a form of pre-entry procedure to ensure that third-country nationals comply with entry requirements. This helps to prevent irregular migration, by allowing Member State missions abroad to determine from the outset, whether a third-country national should be granted access, thus avoiding the need to detect and then terminate an irregular status *ex post facto*. **Belgium**, **Estonia**, **Finland**, **Germany**, **Ireland**, **Italy**, **Slovenia** and **United Kingdom** all have a specific focus on the prevention of irregular migration in their national visa policy.

Some Member States exercise caution in relation to certain third countries from which there is a perceived risk of irregular migration. **Ireland** identified Nigeria and China as of particular interest, and in relation to China, focus was placed on preventing migrants from using the student visa route to access the Irish labour market. **Luxembourg** faces difficulties in controlling cross border flows of irregular migrants and places a focus on third-country nationals arriving from Cape Verde, Brazil and Serbia.[49] For nationals of Brazil, Serbia, Macedonia and Albania entering Luxembourg, focus is placed on possible abuse following the entry into force of a visa exemption agreement.

In **Italy**, great emphasis is placed on the improvement of national visa procedures in order to make them smoother, faster and more transparent, in the belief that this enhancement can be functional to tackle irregular flows. In the **United Kingdom**, the *Home Office Business Plan 2011 – 2015* reflects the Member State's vision for migration and outlines a number of actions, many of which focus on

[48] Most of the refusals were issued to nationals of Morocco, primarily in the cities of Ceuta and Melilla bordering Morocco on the North African coast.
[49] A Visa Free regime is now in place for Serbia.

national visa policy and prevention of irregular migration. These include strengthening the system of granting student visas to reduce abuse, with the likely consequence of reducing net migration. It also includes strengthening the system of granting spouse visas in order to reduce abuse and support the integration of long-term migrants in communities as well as setting an annual limit on the number of non-EU economic migrants admitted to contribute to the reduction of net migration.

Member States have introduced a variety of specific measures in their visa issuance and monitoring practices to tackle irregular migration. It must be noted that these measures are similar in many respects to those applied when checking applications for the issuance of short-stay type "C" visas. The different measures undertaken are described in turn below.

### *3.2.1 Assessment of willingness to return*

In most Member States, an assessment of the applicant's willingness to return to the country of origin is undertaken. A number of Member States including **Germany**, **Finland**, **France**, **Italy** and **Latvia**, conduct personal interviews to verify the purpose underpinning the journey. In cases of family reunification, **Austria**, **Finland** and **Latvia** check the applicant's ties to the country of origin, in particular in relation to family members (**Austria** and **Finland**) and employment status (**Austria** and **Latvia**). Other measures (**Austria** and **Finland**) include, for example, the requirement to present, if relevant, a return ticket.[50]

Several other Member States have specific additional measures in place to prevent irregular migration during the application stage. For example, In **Ireland**, the visa applicant is required to sign a written undertaking declaring that the conditions of the visa will be observed, that they will not become a burden on the State and indicate their intention to leave the state on expiry of permission to remain.[51] In **Italy**, in order to prevent entries for fictitious reasons, according to the length of stay, a banking or insurance warranty is required.

### *3.2.2 Training of personnel*

**Austria**, **Belgium**, **Finland**, **Italy**, **Latvia**, **Lithuania**, **Netherlands**, **Slovenia**, **Slovak Republic**, **Sweden** and the **United Kingdom** also place emphasis on the importance of training diplomatic personnel at embassies and consulates to deal competently with visa applications.[52] Training is also provided to national authorities examining applications. In **Austria**, for example, document advisors train officers of Austrian consulates and staff of airline companies on how to check the validity of documents and in the profiling and identification of applicants. Moreover, document advisors support the consulates with the verification of documents and also the staff of airline companies with the check in of passengers in the countries of origin. In the **Netherlands**, the Ministry for Immigration and Naturalisation (IND) organises training courses on the recognition of false identity documents and source documents, such as birth and marriage certificates, for employees at the diplomatic posts. Moreover, IND employees may be stationed at diplomatic posts to provide consular assistance to prevent abuse of entry procedures, or to provide extra assistance when diplomatic posts are confronted with large numbers of Regular Provisional Residence Permit (MVV) applications. **Finland** also provides training for visa personnel at diplomatic missions including a module on the recognition of forged documents organised by the National Bureau of Investigation. Similarly, in **Lithuania** and **Slovenia** before being sent to a diplomatic consular mission, every employee takes part in a comprehensive training programme, including consular services. From 2012 onwards, a more organised form of training in recognising falsified documents is delivered. In the **Slovak Republic**, every official takes part in a comprehensive training

[50] In **Finland**, the requirement to present a return ticket **may** be requested but usually it is not requested. Russian nationals crossing the border by car is an example of group of people for whom it would be unreasonable to request a return ticket.

[51] This process applies for both short-term and long-term stays in Ireland

[52] Training of personnel occurs both in relation to national type "D" visas as well as type "C" visas

programme prior to being sent on a diplomatic mission., All Entry Clearance Officers (ECOs) in the **United Kingdom** are required to successfully complete a three week assessed training course before they are allowed to take decisions on visa applications. Border Force Officers undergo a six-week period of intensive training and are allocated a mentor for the first four to six weeks following their training.

### *3.2.3 Cooperation and information exchange*

A number of Member States, including **Austria**, **Belgium**, **Estonia**, **Finland**, **Latvia**, **Slovak Republic** and **Sweden**, cooperate with experts from other Member States. This cooperation is undertaken in some instances within the framework of local consular cooperation for both short-stay and long-stay visa applications. In **Belgium** and **Lithuania**, experiences are exchanged locally between their consulates on matters such as the assessment of migration and safety risks. In **Latvia**, consular officials cooperate both with the immigration experts of their country and the experts present in the countries of origin of other Schengen Member States. Such cooperation is considered to be extremely important for high-risk third countries. In **Austria** and **Sweden**, migration experts and document advisors seconded to foreign authorities help spread knowledge about falsified documents.

Internal cooperation and information exchange also occurs, such as in the **Netherlands**, where the Consular Affairs and Migration Policy Department (DCM), on behalf of the Ministry of Foreign Affairs, and the Visa Service of the IND hold consultations to exchange information on a three monthly basis. Information on relevant developments identified by Immigration Liaison Officers in countries of origin is also shared in these consultations. Moreover, the DCM, the Expertise Centre for Human Trafficking and Human Smuggling, the IND, and the National Police Services Agency hold consultations on a three monthly basis in the context of the fight against smuggling of migrants and trafficking in human beings. In the **Slovak Republic**, the authorities cooperate closely together on a regular day-to-day basis, including the Ministry of Foreign Affairs, Ministry of Interior as well as security services. **Poland** and **Sweden** make use of resources providing country of origin information to officials. In **Sweden**, for example, the Lifos system provides country of origin information which is updated by the specialised unit in the Migration Board. In the **United Kingdom**, Border Force Officers are provided with information on an ongoing basis in order to assist them in their role. This information includes any changes made to immigration laws, rules and procedures, as well as intelligence reports and briefings about trends in immigration.

With regard to information exchange mechanisms within the Member States themselves, **Germany** established a Central Alert Database in October 2011 which aims to prevent visa abuse and illegal entries. The database contains alert files on third-country nationals who have been sentenced to a fine or imprisonment for certain offences relating to the national visa procedure.

### *3.2.4 Other preventive measures*

Member States use biometric data collection to deter and to prevent irregular migration. For example, **Ireland** collects biometric data (fingerprints) from to visa applicants in Nigeria and intends to expand the system to Pakistan as well. **France** pays particular attention to specific categories of third-country nationals when examining national type “D” visa applications. For example, at the Consulate in Annaba, the services pay particular attention to Algerian nationals as there is a high risk for false documents, in particular false invitations for merchants from French companies. The **United Kingdom** uses an Immigration and Asylum Biometric System (IABS) to record, store and match biometric information to check if an individual is known to the UK Border Agency, as well as to check identity and multiple asylum applications. The **United Kingdom** has furthermore mobile biometric clinics which allow for the taking of biometric data in remote locations, such as the Bahamas, Cayman Islands and the east coast of Canada. As well as helping to prevent irregular migration the mobile clinics make it easier for applicants to apply for a visa to the UK by reducing the need to travel to enrolment centres in other nearby countries or cities.

Preventive measures when the third-country nationals arrives in the Member State include border control/police inspections (**Bulgaria**, **Belgium**, **Finland**, **Italy**, **Poland**, **Latvia**), border control check on the verification of the authenticity of the visa (**Bulgaria**, **Italy**, **Lithuania**, **Poland**, **Sweden**, **Slovenia**), and sanctions (**Bulgaria**, **Poland**, **Sweden**). For example in **Finland**, during border inspection, the information inserted into the national data system (SUVI) is examined to compare the reason for issue with the purpose of use. A similar measure is undertaken in **Latvia**. In **Poland**, the Border Guards regularly undertake interviews following which further inspections are carried out. For example, inspections to establish the place of residence of family members, or checking the premises which a foreigner indicated as place of residence. In case illegal residence is discovered sanctions are imposed to prevent further attempts at irregular migration.

In addition to the measures undertaken during the visa issuing process, other medium-term measures are undertaken to ensure the efficient combat of irregular migration. The **United Kingdom** broadcasts many television series on the work of the UK Border Agency, which have a deterrent effect on fraudulent applications as the programmes demonstrate effective enforcement of immigration and customs rules. Press releases in countries of origin also work towards the same aim by, for example, highlighting detection of forged visas, enforcement activity and 'myth-busting'.

Finally, "black lists" are drawn up by **Slovenia**, **Latvia** and **Lithuania**. In **Latvia**, the lists include third-country nationals who have previously breached the conditions for entry and stay in the Member State. These persons can be included on the list for a definite or indefinite period of time, depending on the level of risk of visa abuse. In **Lithuania**, Border Guards have an internal "black list" of unreliable inviting parties.

## 4. COOPERATION WITH THIRD COUNTRIES: AGREEMENTS AND CASE STUDIES

This Section aims to explore the cooperation existing between Member States and third countries in relation to visas. Section 4.1 firstly provides an overview of the bilateral agreements existing between Member States and third countries. Case Studies focusing on specific third country relationships with regard to Member States' national visa policy are then presented in Section 4.2.

### 4.1 Agreements with third countries

In relation to type "C" visas, all Member States have taken part in EU visa facilitation agreements. These agreements facilitate certain procedures for applying for short-stay visas, up to three months.[53]

In addition to EU agreements in place relating to type "C" visas, many Member States (**Belgium**, **Bulgaria**, **Estonia**, **Finland**, **France**, **Greece**, **Italy**, **Latvia**, **Lithuania**, **Netherlands**, **Poland**, **Slovenia**, **Slovak Republic**, **United Kingdom)** have entered into a number of bilateral agreements with third countries which have an effect on their national visa policy. For example, in **Italy**, agreements are aimed at issuing long-stay visas, as well as implementing on-site campaigns to discourage irregular flows. A full list of these agreements is given in Table 8 overleaf.

The extent to which Member States have entered into bilateral agreements varies from one Member State to another. Some Member States, due to different factors, such as historical and colonial ties with third countries, have signed several bilateral agreements having an effect on national type "D" visas in order to facilitate migration to their Member State.

[53] The Visa Facilitation Agreements in place are the following: Russian Federation (entry into force 01/06/2007), Albania, Bosnia and Herzegovina, FYROM, Moldova, Montenegro, Serbia, Ukraine (entry into force 01/01/2008) and Georgia (entry into force 01/03/2011). Albania, Bosnia and Herzegovina, Montenegro and Serbia now enjoy visa free travel.

## Table 8: Cooperation with third countries

| Member State | Agreements | Third country |
|---|---|---|
| **Belgium** | Relaxing visa requirements | Morocco, Turkey, Tunisia, Algeria, Croatia, FYROM, Bosnia-Herzegovina, Serbia, Montenegro and Kosovo |
| | Youth Mobility | Australia, New Zealand, Canada |
| | Visa exemption for long term residence | Monaco |
| **Estonia** | Youth Mobility | Australia, Canada, New Zealand |
| **Finland** | Youth Mobility | Australia, New Zealand |
| **France** | Exchange of Young Professionals | Argentina, Morocco, Senegal |
| | Exchange of Young People | Canada |
| | Entry of Interns | Canada, Haiti, Turkey |
| | Management of migration flows and solidarity development | Congo, Senegal, Tunisia |
| | Residence and Circular Migration of professionals | Mauritius |
| | Facilitation relating to transit, employment and residence | Algeria, Morocco |
| | Professional Migration | Russian Federation |
| | Migration | India, Mali |
| | Youth Mobility | Canada, Japan, New Zealand, South Korea, Australia, Argentina |
| **Greece** | Bilateral agreement for employment purposes | Egypt |
| | Seasonal workers | Albania |
| | Youth Mobility | Canada |
| **Ireland** | Informal visa processing fee exemptions | For example with Jamaica, Serbia |
| **Italy** | Readmission agreements | Albania, Algeria, Bosnia Herzegovina, Croatia, Egypt, Philippines, Georgia, FYR of Macedonia,<br><br>Morocco, Moldova Rep. of, Nigeria, Pakistan, Serbia, Sri Lanka, Switzerland, Tunisia |
| | Labour mobility agreements | Albania, Moldova Rep. of, Egypt, Morocco |
| **Latvia** | National Visa facilitation | Russian Federation, Belarus, Ukraine, Armenia |
| | Abolition of visa conditions for holders of citizenship passports | Andorra, Argentina, Iceland, Japan, Monaco, Panama, San Marino, Uruguay |
| | Working holiday scheme | New Zealand |
| | Mutual travel of citizens | Ukraine, Armenia, Belarus |
| **Lithuania** | Fee waiver of consular fee for examination of applications for the issuance of national visas<br>Working Holiday Scheme | Ukraine, Belarus<br><br>Canada |
| **Netherlands** | Visa exemption | Between Benelux countries (**Belgium**, **Luxembourg**) and Bolivia, UAE, Moldova, Nigeria, Ghana, Serbia |
| **Poland** | Local Border Traffic | Ukraine, Belarus (still not signed by Belarus), Russian Federation |
| **Slovenia** | Youth Mobility Agreement | Canada, New Zealand |
| **Slovak Republic** | Youth Mobility Agreement | Canada, New Zealand |
| **United Kingdom** | Approved Destination Status Agreement with China (Visitors)<br>Medical Training Initiative (MTI)<br>International Agreement (including General Agreement on Trades in Services (GATS) and Vienna Convention of Diplomatic Relations 1961)<br>Turkish ECAA Business<br>Youth Mobility Scheme | China<br><br>Non-EEA<br>Non-EEA<br><br><br>Turkey<br>Australia, Canada, Japan, Monaco, New Zealand, Taiwan. |

**Belgium**, **Estonia**, **Finland**, **France**, **Greece**, **Latvia**, **Lithuania**, **Slovak Republic**, **Slovenia** and **United Kingdom** have entered into Youth Mobility Agreements with third countries relating to Working Holidays for Young People. These agreements allow nationals of the third countries who are between 18 and 30 years of age to obtain national type "D" visas to spend up to one year's holiday in the Member State, with the possibility available of doing paid work to supplement their financial resources. For example, in **Estonia**, the visa which is issued for a period of up to twelve months allows the holder to work and reside temporarily with the principle purpose of the visit being a holiday. Since in **Estonia** a national type "D" visa may only be issued usually for a stay of six months within a 12 month period, the visa issued is an exception to normal practice. Some Member States have plans to enter into similar agreements in the future with Canada (**Finland**), Taiwan (**Belgium**, **France**), Hong Kong (**France**), Chile (**France**), Peru (**France**) and Brazil (**France**), New Zealand (**Lithuania**).

A number of agreements have also been entered into facilitating the visa process, such as providing an exemption for the visa fee. For example, **Belgium** has concluded various agreements which can be regarded as a relaxation of the national visa requirements, thus promoting legal migration. Bilateral agreements were concluded with a number of third countries in the 1960s and 1970s to attract migrant workers and their families. The bilateral agreements are currently particularly important to family members, since they contain more favourable provisions that the national regulations transposing Directive 2003/86/EC on the right to family reunification. In **Lithuania**, the Agreement on Consular Fee Tariffs was signed with Ukraine (in 2009) and Belarus (in 2011). The aim of the agreement is to promote legal migration with a view to accelerating democratisation processes, supporting human interrelations and meeting the needs of Lithuania's labour market. In **Latvia**, agreements were entered into with countries of South America relating to visa request preferences due to the Latvian diaspora in these countries following the Second World War.

## 4.2 Case Studies

This Section aims to explore the link between visa policy and migration management by analysing case studies on cooperation between Member States and third countries. Member States were asked to specify the rationale for the selection of their case studies, thereby providing an overview of the interest in the third country concerned, as well as to elaborate on their approach, i.e. indicating whether any agreements were concluded and/or whether there were any other measures in place to meet the objective. The case studies illustrate the extent to which particular measures adopted by Member States, as part of their national visa policy, vis-à-vis a particular third country, are effective in facilitating legal or preventing irregular migration. The selection of third country case studies by Member States is provided in Annex 1.

Several Member States have chosen similar third countries for their case studies. These included the Russian Federation **(Bulgaria**, **Estonia**, **Finland**, **Germany**, **Greece**, **Lithuania**, **Luxembourg)**; China **(France**, **Hungary**, **Ireland**, **Luxembourg**, **Netherlands**, **Sweden)**, Turkey **(Belgium**, **Bulgaria**, **Latvia**, **Slovenia)**; Nigeria **(Austria**, **Finland**, **Ireland)**, Ukraine **(Hungary**, **Poland**, **Slovak Republic**); India **(Austria**, **Lithuania**, **Sweden)**; and Serbia **(Germany**, **Slovenia**). The reasons underpinning their choices are largely similar. The rationale most frequently cited relates to the high amount of visa applications and issued visas, refusal of visa applications, in addition to longstanding historical and well established economic and trade relations between the Member State and the case study countries. In some instances, Member States selected a specific third country following a change in national policy, such as conclusion of a bilateral agreement on visa facilitation or visa exemption or an EU Visa Facilitation Agreement (and Readmission Agreement), or, for the **United Kingdom**, to show the impact of relaxing a specific visa regime. In such cases, Member States were interested in identifying the consequences. Only a few Member States (**Finland**, **France**, **Ireland**, **Italy**, **Netherlands**, **Sweden**) aimed, through their selection, to illustrate a specific national focus or strategy to facilitate legal migration or prevent irregular migration of a particular category of persons.

Though Member States were asked to identify third countries which had a specific link with their national type "D" visa policy, some Member States also mentioned the effect and developments relating to type "C" visas with regard to these third countries.[54] This, in part, was due to the high number of third-country nationals entering on type "C" visas, as well as EU Agreements in place in relation to short-term stay. Though, as stated above, type "C" visas have no direct link to immigration, the Member States considered that the links identified with the third countries due to either the type "C" visas or national type "D" visas were deemed significant due to their possible secondary impact on national visa policy and migration and therefore all references were included.

The following Sections present an in-depth overview of the case studies on China, Nigeria and the Russian Federation. Focus is placed on these third-countries for the following reasons:

- Russian Federation and China were selected most frequently by Member States as a case study country;
- China and Nigeria constitute clear examples of Member States applying a strategic visa policy (respectively facilitating and restricting entry).

### *4.2.1 China: combined approach facilitating legal migration and curbing irregular migration*

This Section describes the case studies relating to China, chosen by a number of Member States (**France**, **Hungary**, **Ireland**, **Luxembourg**, **Netherlands**, **Sweden**).

#### *4.2.1.1 Rationale*

With regard to the rationale, almost all Member States referred to a high influx of immigrants (**France**, **Ireland**, **Netherlands**, **Sweden**), especially students (**France**, **Ireland**) and skilled to high-skilled workers (**France**, **Sweden**) from China. Moreover, Member States have good relations with China in various fields including trade, industry, science, technology, culture, education. In **France**, a high number of short-stay type "C" visas are issued to citizens of China, thus constituting a significant source for tourism. **Luxembourg** issues many visas for business and tourism purposes. Due to the high influx and high numbers of visas issued to Chinese citizens, many consulates exist in this country, in addition to embassies, particularly with respect to **France** and the **Netherlands**.

**France**, **Hungary**, **Luxembourg** and **Sweden** selected China as a case study from a perspective of facilitating legal migration. **Sweden**, for example, applies *bona fide* handling of visa applications for business travellers, giving third-country nationals working for Swedish businesses in China access to simplified procedures. In their case study they specifically highlight practical work methods. **Ireland** and the **Netherlands** also focus on some aspects of preventing irregular migration. In **Ireland**, focus was placed specifically on the attempt to attract Chinese students, while also tackling the problem of migrants using the student visa to access the Irish labour market. The **Netherlands** aims to facilitate legal migration, in particular for business travellers and scientists. However, national visa policy towards China is under scrutiny in the **Netherlands** due to the possible risk of trafficking in human beings. In **Hungary**, national visa policy mainly focuses on ethnic migration of neighbouring countries and there seems to be a lack of strategic policymaking and public debate on any other form of migration. China was thus selected in order to illustrate this also.

#### *4.2.1.2 Measures implemented by Member States*

At national level, **France** and **Hungary** concluded bilateral agreements with China. **France** concluded two bilateral agreements with China: the 1996 Maritime Transport Agreement 1996, and the 2008 Agreement on the status of Approved Tourist Destination for French Polynesia. In **Hungary**, a bilateral agreement was concluded with China on a national visa free regime which was in force from 1988 until 1992. However, following accession to the Schengen area, the visa free

[54] This is particularly the case for **Finland** who only issue type "C" visas.

regime could no longer be applied.

At EU level, all Member States are party to the Memorandum of Understanding with National Tourism Administration of the People's Republic of China on visa and related issues concerning tourist groups from the People's Republic of China (ADS) which was concluded in 2004. The Memorandum of Understanding relates to short-term type "C" visas.

**France** and **Sweden** have other measures in place to facilitate legal migration. **France** requested the Chinese authorities to attribute the label "Approved Tourist Destination" (ATD) or "Approved Destination Status" (ADS) to some EU Member States, including France, in order to allow many Chinese tourists to travel to these destinations in groups. In the education sector, **France** has a programme of grants in place and provides for expert training network partnerships. Cooperation occurs with the Central School in Peking and the Sino-European Aeronautical College in Tianjin in order to increase Franco-Chinese educational exchanges. In **Ireland**, a specific strategy is in place for improving economic relations with East Asia, with emphasis being placed on marketing Irish educational services in China among other countries. In the **Netherlands**, the Education Support Office (NESO) actively promotes Dutch education in China in order to attract students. **Sweden** applies a "Bona fide handling system" at the Beijing Embassy. As part of this policy, visa applications from foreign employees of Swedish companies in China are given bona fide status and are provided access to simplified application procedures under which, for example, an interview would not be necessary and the applicant would not need to be present when the application is lodged. The simplified process makes business operations easier, thereby promoting trade and industry.

**Ireland** and the **Netherlands** also introduced measures to prevent irregular migration. In **Ireland**, initiatives have been developed to deter fraud in student visa applications targeting in particular suspect applications made by agents. A visa office opened in Beijing in 2002 to process large backlogs of visa applications made in China. New procedures have been set in place to detect and deter the practice of misusing student visas as a means to access the Irish labour market, as well as to encourage applications from genuine students. In the **Netherlands**, the "Wall Programme" was launched in July 2010. This programme aims to combat organised crime committed by Chinese migrants, with a focus on trafficking and smuggling of human beings. A subproject within this programme focuses on the abuse of student visas and highly-skilled migrant visas, which includes a study into the nature and approach to abuse of the entry procedures for students as there are indications that Chinese migrants holding residence permits for study purposes are working illegally.

#### *4.2.1.3 Impact of implemented measures*

Member States have experienced a number of effects caused by the agreements/measures in place with China. **France** experienced a sharp increase in migration flows from China. In the period 2004-2010, national type "D" visas increased by 75%, with an almost 70% increase in residence permits. In relation to type "C" visas, a sharp increase in the numbers of tourist visas was also apparent as a result of the EU Memorandum of Understanding. In 2010, 23 458 individual tourist visas were issued, whereas the figure for those receiving short-stay visas for group tourist travel was 96 285. Increasing numbers of Chinese students registered at French universities, which rose from 6 601 in 2005 to 10 297 in 2010. National type "D" visas issued to students accounted for 71% of the national type "D" visas in 2010. The high number of national type "D" visas issued for study purposes was considered a possible result of the initiatives undertaken by the French Government aimed at stimulating student exchange, which consisted of a programme of grants and expert training network partnerships.

In **Ireland**, the Chinese population grew from 6 000 to almost 11 000 between 2002 and 2006. The majority (92%) was aged between 15 and 44, with 40% between the ages of 15-24. Seventy-three percent of the new residence permits issued was for education-related reasons. **Ireland** also experienced an increase in visas issued for study purposes and mainly for higher education, over the

period 2005-2008. This increase was linked to the opening of the visa office in Beijing and the possibility of facilitating visa applications for higher education. The total national visas issued for third level education, further education and general education increased by 67.5 % in this period, affected by marketing efforts of Irish educational services in China.[55]

In **Luxembourg**, legal migration from China is relatively low. In 2010, there were 1 426 visa applications (short-stay and long-stay) of which 1 355 visas were issued. From the issued visas, only 91 were national type "D" visas, accounting for only 6.7% of the total. A large majority of the visas issued constituted short-stay type "C" visas for tourism purposes which accounted for 66% of the total number of visas issued. Nevertheless, overall migration of citizens of China to Luxembourg has grown over the last twenty three years. The number of Chinese workers registered in the Inspection Générale de la Sécurité Sociale (IGSS) has almost doubled in the last ten years. The number of naturalisation cases has steadily increased in the period 2001-2008.

In the **Netherlands**, the number of short-stay type "C" visas, as well as the number of Regular Provisional Residence Permits (MVVs) (national type "D" visas) granted for both education and employment reasons increased. The number of MVVs for education increased from 1 280 in 2005 to 2 190 in 2010, while the number of MVVs for employment rose from 495 (2005) to 1 586 (2010). Similarly, migration for study purposes and in particular for labour migration has strongly increased since 2005. The activities of the Netherlands Education Support Office (NESO) and the "orange-carpet-policy" have contributed to the increase of MVV issued for education and employment. Nearly all residence permits were granted to Chinese migrants who entered the **Netherlands** on the basis of a MVV, as the latter constituted the only channel of migration for the purposes of study and employment.

**Sweden** has experienced an increase in issued visas, residence and work permits. The increase in the number of type "C" visas is mainly connected to business travel (accounting for 75% of visas issued), with a decrease being noticeable during the economic global crisis. Residence permits are mainly issued to students, followed by work permits issued for labour migration. It is considered that the bona fide handling of visa applications for business travellers has a positive effect, with Sweden considering the system efficient and stimulating economic exchange between the two countries.

Contrary to the increases in migration flows from China in other Member States, **Hungary** has experienced a decrease in the number of visas issued to Chinese citizens, following accession to the Schengen zone.

### *4.2.2 Nigeria: Preventing Irregular Migration*

This Section describes the case studies relating to Nigeria chosen by **Finland** and **Ireland**.

#### *4.2.2.1 Rationale*

**Finland** selected Nigeria as case study to further explore the link between visa policy and migration policy to prevent illegal entry. In **Finland**, applications from Nigeria are characterised by a high refusal rate. Similarly, **Ireland** selected Nigeria as a case study because it is a significant country of origin of migration to Ireland and due to the high proportion of Nigerian nationals among persons refused permission to enter the state, persons issued with Deportation Orders and persons returned. Nigerian nationals are also a dominant group in Irish asylum applications.

#### *4.2.2.2 Measures implemented by Member States*

With regard to agreements, **Ireland** concluded a bilateral agreement with Nigeria in 2001

[55] The National Report states that it is likely that changes suggested in a recent Supplementary Paper on Irish Student Visas were based on the experience gained in China. The changes concern the creation of a system under which priority in applications would be given to those with a track record of ethical and efficient operation.

concerning immigration matters, including readmission. Though the agreement has not yet been ratified by the Nigerian government, both countries are operating in the spirit of the agreement since 2009, particularly with regard to return.

Concerning other measures to curb irregular immigration, **Finland** mobilises extra staff resources when deemed necessary. For example, due to a flood of residence permit applications from students in 2007, temporary liaison officers from the Finnish Border Guard, the Police and the Finnish Immigration Service provided extra assistance to the Embassy in Abuja. The liaison officers provided training to Embassy personnel and further assisted in the identification of forgeries during the inspection of documents, execution of interviews, and in the arrangement of entrance examinations for educational institutions. Moreover, in 2007, Finland introduced an "appointment system" requiring each visa applicant to make an appointment for a visa interview, with the visa fee to be paid in advance. Finland has also funded government operations to combat human trafficking by supporting the *National Agency for the Prohibition of Traffic in Persons and Other Related Matters* (NAPTIP). For example, if, during a visa interview, suspicion arises that the visa application is related to trafficking, the Embassy can inform the NAPTIP which can subsequently send an employee to meet the visa applicant when leaving the Embassy.

In **Ireland**'s case, biometric data collection, as part as the "e-Visa" project managed by INIS, has been introduced in Nigeria. The project was introduced by INIS following the introduction of biometric testing by the UK Border Agency (UKBA) which, it was believed, had resulted in a steep increase of visa applications to Ireland, due to the Common Travel Area between these Member States. Initially, the collection of fingerprints for applicants aged six and older was introduced as a six month pilot. Currently, however, it constitutes a permanent feature of visa applications made in Nigeria. Information/data stored in a national database may be shared with other Irish state agencies, as well as with relevant authorities of other States to establish immigration and/or relevant histories. After the checking of fingerprints, the generated report is used to support decisions on visa applications. A previously compliant visa record strongly supports an applicant's case, whilst a record of previous asylum claims or non-matching ID would almost certainly result in refusal following which the applicant would be placed on a "watch list."

#### *4.2.2.3 Impact of implemented measures*

Member States have experienced a number of effects in relation to the migration of nationals of Nigeria. In **Finland**, the number of type "C" visa refusals is extremely high (67.5% in 2010), with many refusals relating to attempts of illegal entry on the basis of forged documents. Though the number of short-stay visa applications was constant during the period 2005 to 2007 (approximately 1 400), the number of decisions has decreased since 2008 from 1 022 (2008) to 714 (2010). Such a decrease may in part be due to the introduction of the appointment system in the Finnish embassy in Abuja. In this regard, reference is made to the training of Embassy personnel, which has led to a high identification of forged documents. When an officer from the Finnish Border Guard led the inspection of documents, more than 60% of the documents provided by applicants were found to be forged, previously this only occurred for a third of the documents. Similar to the number of visa refusals, the number of refusals of residence permit applications is high. A sharp increase was experienced in the number of refusals in 2009 and 2010, also correlating with the downward trend in the number of visa applications. **Finland** has found that many refused visa applicants have subsequently applied for a residence permit with continuously changing stories. The experience has been that in regions where there is high pressure of irregular entry restriction of one channel (visa applications), new channels are being sought (residence permit applications). This demonstrates the link, in **Finland**, between the use of type "C" visas to simply attempts to enter the Member State, with residence permits, considered as the ultimate means for long-term stay.

Biometric data collection has been deemed a success by INIS in **Ireland**, with the number of "poor quality" visa applications reduced. The number of national visa applications made in Nigeria has decreased by 55% in the period 2008-2010, from 11 376 (2008) to 5 125 (2010). Moreover, the

average annual approval level of applications (number of applications approved as a percentage of all decisions made) increased from 41% in 2008 to 52% in 2010. This suggests that poor quality visa applications have been deterred, whilst higher quality applications increasingly result in the issuance of visas. In addition to the decreasing numbers, the biometric checks have had other positive effects, as they, for example, enable an Irish immigration officer at the port of entry to quickly verify whether the person seeking to enter is the same person who applied for the visa. Furthermore, biometric checks enable cross-checking to detect whether asylum applicants, undocumented persons or those attempting to conceal their true identity, have ever applied for a visa, or whether they are registered in the Garda National Immigration Bureau (GNIB) registration.

### *4.2.3 Russian Federation: Facilitating Legal Migration*

This Section describes the case studies relating to the Russian Federation chosen by **Bulgaria**, **Germany**, **Estonia**, **Greece**, **Finland**, **Lithuania** and **Luxembourg**.

#### *4.2.3.1 Rationale*

The relevant Member States recognised that the Russian Federation constitutes an important country of origin for visa applications as well as several types of migration, ranging from economic migration, including the migration of highly-skilled workers, to the migration of students.

Most Member States (**Bulgaria**, **Germany**, **Estonia**, **Finland**, **Lithuania**, **Luxembourg**) have longstanding historical, cultural and economic relations with the Russian Federation and issue a significant number of visas to their citizens. **Bulgaria**, **Estonia** and **Finland** chose the Russian Federation as they were particularly interested in the possible consequences following the introduction of an EU Visa Facilitation Agreement and Readmission Agreement, relating to type "C" visas. **Estonia** and **Lithuania** were additionally motivated by the fact that many of their citizens have family links to Russian citizens. **Luxembourg** and **Germany** have a special interest in the Russian Federation for economic reasons, notably with energy supplies in the case of **Germany**. **Finland** examined the possible effects of outsourcing the administration of visa applications to external companies. **Greece** specified that tourist visas issued to Russian citizens constitute a priority in their national visa policy and that frequently incentives are provided for.

#### *4.2.3.2 Measures implemented by Member States*

At national level, **Germany** and **Lithuania** concluded bilateral agreements with the Russian Federation. In **Germany**, a bilateral visa facilitation agreement was signed on 10th December 2003, facilitating travel for several categories of persons. **Lithuania** signed a Joint Statement on transit between the Kaliningrad region and the rest of the Russian Federation on 11th November 2002 and an Agreement on Travels of Nationals of Both States. A special regime for passing in transit between the Kaliningrad Oblast and the remaining territory of Russian Federation is in force, introducing a Facilitated Transit Document (FTD) and a Facilitated Rail Transit Document (FRTD). Moreover, **Lithuania** initiated a Visa Liberalisation Dialogue with the Russian Federation in 2007, with a further agreement on local border traffic, based on Regulation (EC) No 1931/2006 of the European Parliament and of the Council[56] In **Finland**, three agreements are in place, the Border Regulation Agreement of 1960, the Intergovernmental Crime Prevention Agreement of 1993, and the Agreement between Finnish and Russian Customs in 1994. In **Estonia**, a bilateral agreement was in place which facilitated travel of persons visiting close relatives living in Russian Federation. This agreement, however, is no longer in force following Estonia's accession to the Schengen area.

[56] On 14 May 2012, the Act of 16 March 2012 on the ratification of the Agreement between the Government of the Polish Republic and the Government of the Russian Federation on local border traffic (LBT) entered into force which means that the ratification of the LBT agreement with Russia on the Polish side has been finalized. For more information see http://www.emn.gov.pl/portal/ese/719/9197/Poland_ratified_the_local_border_traffic_agreement_with_the_Russian_Federation.html.

At EU level, bilateral visa facilitation agreements are supplemented by the EU Visa Facilitation Agreement signed with the Russian Federation in May 2006, as well as the Readmission Agreement, with these agreements relating to type "C" visas only.

**Bulgaria**, **Germany**, **Greece** and **Lithuania** have other measures in place to facilitate legal migration. **Germany** concluded youth exchange agreements, agreements on cultural cooperation and language teaching, and cooperation between border police has been established. **Bulgaria** has undertaken additional measures with a view to improve the conditions for issuing visas at the Bulgarian consular offices in the Russian Federation. In **Greece**, certain agreements are in place in order to support personnel at Greek posts in the Russian Federation, to speed up visa issuance processing and to facilitate processing of visa applications of Russian citizens living far from Greek consulates. Finally, in **Lithuania**, the Lithuanian mission in Moscow offers the possibility to fill in visa applications online.

With regard to measures for preventing irregular migration, **Germany** has developed training courses and seminars in order to enhance the ability of discovering forged or counterfeit documents. Amongst the case studies this constitutes the sole initiative aimed to prevent irregular migration.

#### *4.2.3.3 Impact of implemented measures*

Member States have experienced effects concerning the agreements/measures in place with the Russian Federation. In **Germany**, the immigration of Russian nationals has substantially decreased between 2003 (31 776) and 2010 (16 063). The decrease in entries roughly corresponds to the decrease in number of national type "D" visas. In contrast, **Germany** experienced an increase in short-term visas in the period 2006-2008 and, in 2010, 96.7% of issued visas constituted type "C" visas. Though there was an increase in short-term visas during the period, the influx of migrants remained static.

In **Finland**, there was an increase in the number of type "C" visa applications between 2005 and 2010 from 373 179 to 958 292. The share of refusals has decreased steadily however as the number of applications has grown, demonstrating the major increase in the number of visas issued. The increase correlates with the outsourcing of visas centres for receiving applications and delivering issued visas in order to facilitate entry of citizens of Russian Federation, with the increase in applications being the reason to start outsourcing.

In **Lithuania**, there has been a decrease of the number of visas issued to Russian citizens. This decrease might have been caused by the issuance of type "C" visas to Russian citizens by other Member States, as well as by the global economic crisis. With regard to immigration flows they have remained relatively low in **Lithuania**, despite the fact that the biggest number of visas are issued to Russian citizens, with most arriving for family reunification.

By contrast, the number of visa applications, the number of visas issued, as well as the visa refusal rate, has remained constant during the period 2004-2010 in **Estonia**.[57] From this, they conclude that the EU Visa Facilitation Agreement has not had a significant impact on their national visa policy.

In **Luxembourg** in 2010, 5 511 visa applications were submitted with a success rate of 97.2%. Most issued visas were type "C" short-term visas and only 0, 9 % were national type "D" visas. Most visas issued to Russian citizens are based on economic and cultural links. During the period 2000-2010, immigration has been fairly constant. Since 2000, most Russian immigrants are highly skilled or skilled workers that have come to work for Russian companies.

[57] The number of immigrants has also overall remained constant. In 2010, 47% of all third-country nationals living in **Estonia** were third-country nationals from Russian Federation, with 98 492 Russian Immigrants in that year.

## 4.3 The effectiveness of Member States approaches

This Section summarises the national visa policy approaches and their effects as presented in the Case studies on China, Nigeria, and the Russian Federation. The case studies suggest that national visa policy is used as a migration channel in relation to long-stay visas. With regard to legal migration, national visa policy serves as an instrument to select migrants, with the case studies showing a preference for students and highly skilled workers. Concerning irregular migration, visa policies serve to prevent illegal entry, as a variety of instruments allow for early identification of potential abuse of specific visas and residence permits, and even of criminal intent. Table 9 provides an overview of national visa policy measures and their impacts in China, Nigeria and the Russian Federation.

From Table 9, it would appear that, in certain instances, national visa policies have been effective in dealing with migratory phenomena. Policies facilitating entry of Chinese citizens, for example, have implied an increase in national type "D" visas issued, whilst the restrictive policies employed towards Nigeria, have seemingly contributed in a decrease in irregular migration.[58] It was also reported that an effective policy of migration management has produced positive results, significantly reducing irregular immigration. This is the case of the Albanian flows to **Italy**, a scientific "case history" analysed by several international scholars.[59] The latter illustrates the deterring effect of higher levels of scrutiny of visa and residence permit applications.

Effects reported in the case studies on Russian Federation are variable. The variety of objectives and measures adopted by Member States in their national visa policy towards the Russian Federation mainly aim to facilitate legal migration. However, **Germany** and **Lithuania** have experienced a decrease in the number of visas issued to Russian citizens as well as a decrease in the number of Russian immigrants. On the other hand, the numbers of Russian visa applications and immigrants have remained constant in **Estonia** and **Luxembourg**. Noteworthy is that in **Germany**, the number of immigrants has decreased, whilst the short term visas have increased.

Specific visa policies have not only influenced the absolute numbers, but they have also affected the characteristics of persons entering the territory, for example the educational or skills levels of migrant visa holders. In general, policies favour entry for business and for students. The aim to attract students is apparent in the visa policy of **France**, **Ireland** and the **Netherlands** towards China and the aim to attract business travellers is apparent in the policy of the **Netherlands** and **Sweden**. In all such cases, the Member States' strategy seems to have had the desired effect, as the number of visa applications for reasons of education and employment (and related residence permits) has increased.

[58] Other factors for a decrease in irregular migration must be taken into account however, such as the use of different migratory routes

[59] Such as King, Russell and Mai, Nicola, *Out of Albania: from crisis migration to social inclusion in Italy*, Berghahn Books, New York, 2008; International Organization for Migration (IOM), edited by Melchionda Ugo, *Gli albanesi in Italia. Inserimento lavorativo e sociale*, Franco Angeli, Milan, 2003; Devole Rando, Pittau Franco, Ricci Antonio, Urso Giuliana, *Gli albanesi in Italia. Conseguenze economiche e sociali dell'immigrazione,* Idos, Rome 2008

## Table 9: National visa policy approaches and effects in China, Nigeria and the Russian Federation

| Country | Member State | Measures | Impacts |
|---|---|---|---|
| China (6) | France*<br>Hungary<br>Ireland*<br>Luxembourg<br>Netherlands*<br>Sweden* | **France** undertook initiatives to stimulate student exchange. | **France** reports an increase in short-stay visas, national type "D" visas as well as residence permits. 71% of national type "D" visas were issued to students, which may be considered a result of the initiatives undertaken by the French government. |
| | | **Ireland's** aim is to attract students whilst preventing abuse of student visa. IE offers the possibility of facilitating visa applications for students, undertakes extensive marketing efforts of Irish educational services and has opened a new visa office in Beijing. | **Ireland** reports an increase in study visas for higher educational levels (67.5% in the period 2005-2008) and indicates that 73% of residence permits issued in 2010 were issued for education-related reasons. |
| | | **Netherlands** applies the orange carpet policy which facilitates business travels and NESO actively promotes Dutch education as to attract students. At the same time, however, NL tries to prevent instances of human trafficking from China. | **Netherlands** reports an increase in the number of short-stay visas as well as the number of MVVs granted for employment and education reasons over the period 2005-2010. Migration for study purposes and in particular for labour migration has strongly increased in the same period. All residence permits issued are issued to persons who have entered NL on the basis of a MVV. |
| | | **Sweden** applies strategic policy of bona fide handling for business travellers. | **Sweden** reports an increase of issued visas, residence and work permits. Work permits were mainly issued to students in 2010 (1 959 out of 2 983 = 66%), followed by labour migration (631 out of 2 983 = 21%) and family members (333 out of 2 983). |
| Nigeria (3) | Finland*<br>Ireland* | **Finland** mobilises extra staff at the Embassy and introduced an "appointment" system.<br>Extra staff was mobilised for handling the influx of residence permits in relation to students. | **Finland** reports that the number of visa decisions was constant during the period 2005-2007, but starting from 2008 has decreased from 1 022 decisions in 2008 to 714 in 2010 (following introduction of the appointment system in 2007). |
| | | **Ireland** applies biometric data collection as part of the visa application procedure. | **Ireland** reports that the number of visa applications made in Nigeria has fallen by 55% in the period 2008-2010, whilst the average annual approval level of applications increased from 41% in 2008 to 52% in 2010, suggesting that poor quality visa applications have been deterred whilst higher quality applications increasingly result in the issuance of visas. |
| Russian Federation (7) | Bulgaria*<br>Germany*<br>Estonia<br>Greece*<br>Finland | **Bulgaria** has measures in place to speed up visa issuance at the Embassy in Russian Federation. | NA |
| | | **Finland** has measures in place to allow a favourable visa policy for citizens of Russian Federation. Measures include, among others, outsourcing reception of visa applications and delivery of processed visas to VFS Global in Moscow and St. Petersburg. In general, applicants are not interviewed and they need to provide only few supporting documents, depending on the purpose of the journey. In 2010 Finland received approximately 95 % of all visa applications from Russia. | **Finland** reports that the number of type "C" visa applications has increase from 373 179 (2005) to 958 292 (2010). The increase correlates with the outsourcing of visas centres for receiving applications and delivering issued visas in order to facilitate entry of citizens of Russian Federation. The share of refusals has decreased steadily however as the number of applications has grown. |

| Country | Member State | Measures | Impacts |
|---|---|---|---|
| | Lithuania*<br><br>Luxembourg | **Germany** has concluded a bilateral visa facilitation agreement with Russian Federation and facilitates travel for certain categories, including business men, students, diplomats, artists, participants in government programmes for cultural exchange, sports events etc. DE has furthermore youth exchange programmes, and agreements on cultural cooperation and language teaching. To prevent irregular migration, DE has established border police cooperation. For this purpose, DE has developed training courses and seminars in order to enhance the ability of discovering forged or counterfeit documents. | **Germany** reports a decrease in immigrants 2003-2010, a decrease in national type "D" visas, and an increase in short-stay visas in 2006-2008. The decrease in entries correlates to the decrease in national type "D" visas. On the other hand, however, there was a sharp increase in the numbers of short-stay visas. |
| | | **Greece** has improved the infrastructure of the three Greek Consular authorities, reinforces personnel in preparation and examination of visa applications, facilitates visa applications for Russian citizens living far from the cities where the Consulates are situated by creation of 8 Greek Visa Centres where visa applications may be made by persons as well as tourist agencies. Multiple entry visas of validity one to 5 years are issued to persons found to be credible by the Consular Authority and such persons may be exempt from the interview requirement. | Data provided by **Greece** indicates an increase in the amount of short-stay visas issued to Russian citizens. In 2002, 116.774 short-stay visas were issued, the number increased in 2006 to 200.828 and in 2010 to 374.558. |
| | | **Lithuania** has measures in place to speed up visa issuance at the Embassy in Russian Federation by offering the possibility of applying for a visa online. | **Lithuania** reports that visa application process became more convenient for users and staff and that similar systems are envisioned for other embassies. |

**Member States' Visa Policy underpinned by a specific national strategy*

## 5. EFFECTS OF EU POLICY AND LEGISLATION

This Section outlines the identified effects of EU policy and legislation on Member States' national visa policy. In many instances, Member States have had to amend their visa policy relating to national type "D" visas. Though short-stay type "C" visas, as regulated under the EU acquis, are not to be used for legal migration purposes, the changes and developments in EU policy and legislation in the Schengen Member States have had an impact on national type "D" visas for longer term stay.

With regard to the overall impact, effects ranged from little to no effects (e.g. **France**, **Sweden**, **Luxembourg**); over more significant effects (e.g. **Finland**, **Malta**); to radical changes to national legislation and administration (e.g. **Estonia**, **Hungary**, **Latvia**, **Lithuania**, **Poland**, **Slovenia**, **Slovak Republic**). **France** argued that EU visa policy and legislation have mainly used existing national policy and practice, especially in terms of the facilitation of legal migration (e.g. promoting the issue of circulation visas to persons contributing to the influence of bilateral relations, as laid down in the Visa Code) and prevention of irregular migration (e.g. standardised procedures for the examination of visa applications).

**Finland** experienced comprehensive effects on its national visa policy, in that after 2001, decision-making in this policy area was confined to distribution of work in visa matters; all other regulations came from EU acquis. However, as **Finland** does not issue national type "D" visas, no other aspects of Finnish immigration policy were seen as affected by the EU. In **Malta**, the legal basis for its visa and legal immigration policy, i.e. the *Immigration Act*, has undergone a number of amendments to be brought in line with the EU acquis in the area. In particular, the Visa Code was considered as the key legal instrument in the area.

**Austria**, **Latvia**, **Lithuania**, **Poland**, **Slovenia** and the **Slovak Republic** observed that, on accession to Schengen, the possibilities of shaping an independent national visa policy were reduced substantially, with scope to only impose a national visa policy on type "D" visas. Furthermore, upon harmonising the procedures of admission of applications and adoption of decisions on type "C" visas, modifications were necessary regarding the national regulatory acts previously in force and the national procedures applied.

**Bulgaria** referred to the implementation of EU acquis requiring legislative changes. It adopted most of the rules regarding visa types, validity, maximum number of entries and length of stay. It has also started to collect biometric data. However, since **Bulgaria** is not yet part of Schengen, it does not issue uniform visas but only national type "D" visas. **Estonia** identified problems deriving from EU visa policy and legislation, in terms of rendering the visa issuing process more rigid (e.g. exhaustive list of grounds for visa refusal), resource intensive (e.g. requirement to provide written decision and grant appeal) and complicated (e.g. loss of simplified procedure for family visits to Russian Federation). These have also had impacts on practices and procedures in relation to type "D" visas, with these procedures often identical to those used for type "C" visas.

In **Hungary**, migration law on visas was also completely reformed, with the EU acquis now largely predetermining legislation on migration. Due to the stricter visa regime based on EU rules towards some of Hungary's non-EU member neighbouring countries (and the end of bilateral visa regimes), national visa policy has been subordinated to diaspora policy. Therefore, the visa facilitation agreements (e.g. with Ukraine) were considered very important, with visa policy serving as much as possible the entry of Hungarian minority third-country nationals[60] to Hungary "*in order to compensate for EU law and security requirements*."

Although **Ireland** is not in Schengen, EU policy and legislation have significantly impacted on Irish

[60] Hungarian minority third-country nationals, so-called "kin minority," are third-country nationals with Hungarian origins.

Visa policy via the Free Movement Directive (Article 10 stipulating that a family member of a Union citizens should be visa-exempt) and European Court of Justice (ECJ) case law. In the High Court case *Raducan & Anor versus the Minister for Justice* the State was found to have failed to comply with its obligations under *Directive 2004/38* as it had refused entry and had detained the Moldovan wife of a Romanian national residing in the country who was in possession of "a residence card of a family member of a Union citizen".

The **United Kingdom** does not participate in all aspects of Schengen but has challenged its legal exclusion from three EU border measures with a security dimension (i.e. VIS, the creation of Frontex and biometric passports). The Court of Justice confirmed that the United Kingdom's participation in new aspects of the Schengen system is in effect subject to prior approval of the other Member States.

With regard to the Visa Code, Member States experienced effects on their type "C" visas. The Visa Code redefined the legal framework for representation agreement and forms of cooperation (e.g. co-location, common application centres, recourse to honorary consuls and cooperation with external service providers). Moreover, procedures were introduced to guarantee the applicant's right to appeal and to a written decision when authorities decide to refuse, annul or revoke a short-stay visa. Though the purpose of the Visa Code was to alter the procedures relating to short-stay type "C" visas, the Visa Code seemed to have influenced the procedures and practices in place in the Member State in relation to national type "D" visas.

Some Member States refer to the entry into force of Regulation No. 265/2010, which stipulates that third-country nationals who hold national type "D" visas may move freely within the Schengen Area for up to three months in any six-month period. The implementation of this Regulation has impacted upon the issuing of national type "D" visas since Member States, in accordance with the Regulation, stopped issuing the Visa D+C which allowed the holder who had a long-stay visa to travel in the Schengen area for three months. In order to comply with the provision of the Regulation on the maximum validity of a long-stay visa (i.e. one year), legislation was changed, where necessary, in the Member States.

The impact of the Regulation was explicitly mentioned as positive by a few Member States, with **Estonia**, **Italy** and **Greece** praising the facilitated free movement of third-country nationals (pending the outcome of an application for a residence permit – **Greece** and **Italy**) and the **Slovak Republic** referring to a previous problem of departure of long-stay visa holders (due to limited flight connections with certain third countries).

**Lithuania**, on the other hand, expressed concern regarding *Regulation 265/2010*. Since Member States have various practices regarding the issuance of national type "D" visas, which are, in some instances, less strict than the codified practice for type "C" visas, concerns have been raised that irregular migrants may attempt to apply for a national type "D" visa rather than a type "C" visa since they are now allowed to travel freely in the Schengen area.

## 6. VISA CHALLENGES AND SUCCESS FACTORS

Member States have experienced a number of challenges and success factors in relation to national type "D" visas. These relate to both the facilitation of legal migration (Section 6.1) and the prevention of irregular migration (Section 6.2).

### 6.1 Challenges and success factors for facilitating legal migration

A number of issues and obstacles have been identified in Member States in relation to facilitating legal migration through national type "D" visas. In addition, Member States also identified areas of the visa process which were considered to be successful in achieving the objective of facilitating legal migration.

The importance of the application process and treatment of visa applications was identified by a

number of Member States (**Belgium**, **Finland**, **Germany**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Netherlands**), with the efficiency of procedures considered to be of high importance for attracting third-country nationals. In **Finland**, it was considered that an inefficient application process in relation to type "C" visas could damage a Member State's image as a potential destination country for migration. In **Belgium** and **Germany**, national visa procedures were considered to be slow. In the past, slow procedures have hindered economic migrants wishing to enter **Belgium**. **Germany** considered that procedures for skilled experts wishing to enter were too slow and inefficient, with efforts being placed on accelerating these procedures by scanning documents and transmitting them electronically. In **Ireland** and the **Netherlands**, the requirements imposed on national type "D" visa applicants were considered onerous by some third-country nationals.[61] In the **Netherlands**, for example, the Entry and Residence Procedure was considered to be onerous because a third-country national is required to submit almost the same application twice for the Regular Provisional Residence Permit (MVV). In **United Kingdom** there was little evidence to suggest the introduction of the Points-Based System encouraged migrants to apply for visas instead, but evidence suggested applicants found the process easier to understand than the previous system, and perceived it as transparent, user-friendly, efficient and fair.

In order to ensure that visa procedures were successful in attracting legal migrants, **Belgium** introduced a fast-track procedure for economic migrants in order to ensure that the application process runs smoothly. Family members of employees also benefit from this treatment in order to attract third-country nationals to the Member States. In **Ireland**, bilateral meetings between immigration authorities and representative bodies take place periodically to assist the migration of certain third-country national groups by facilitating access to the territory. The **Netherlands** introduced the "orange carpet policy" for third-country nationals invited to enter. This policy waives their obligation to comply with the requirements of appearing in person at a Dutch representation for the submission of all applications and documents. In **Sweden**, a pilot of e-applications for visas and certain types of residence permits was introduced at approximately 15 missions abroad. This pilot, beginning in 2011, allows applications to be filed online, with payments and appointments also processed online, in order to facilitate the procedure for migrants. Moreover, seconded national experts from the Migration Board have assisted consular authorities in countries of origin in improving visa procedures to reduce case handling times and improve customer service.

Visa policy for some migrants was tightened in the **United Kingdom** to better facilitate migration. Tier 1 of the Points-based System (for highly skilled workers) was restricted to all but entrepreneurs, investors and people of exceptional talent from November 2011 following a study showing some Tier 1 migrants employed in unskilled roles. Migrants who could previously apply under Tier 1 are now required to apply through Tier 2 (skilled workers with a job offer) to ensure the needs of the UK labour market are met and that best use is made of migrants' skills. For students (Tier 4) a sponsorship regime ensures students are coming to study at *bona fide* educational institutions and studying legitimate courses. In addition, the application process for students who are nationals of 14 low-risk countries was streamlined providing a swifter turnaround time for the applicant.

**Latvia** highlighted the need for additional resources during certain seasonal periods, namely visa experts at the Ministry of Foreign Affairs, as well as technical personnel who could assist in reviewing and accepting visa applications.

The benefits of having a network of consulates abroad were highlighted by **Belgium**, **Germany** and **Latvia**. **Belgium** identified its relatively wide consular network, with the existence of 70 Belgian consulates abroad as a success factor in the facilitation of legal migration through visas. In

[61] In **Ireland**, Departmental officials argue that rigorous requirements are necessary to deter fraudulent applications.

**Germany**, the work of consulates abroad was also considered successful, with German missions informing the population in their host countries of the opportunities for legal migration and access to the labour market, especially for highly-skilled workers. By contrast, in **Latvia**, the lack of consulates and representations abroad has meant that it is challenging for third-country nationals to obtain national type "D" visas since these do not fall under the scope of Representation Agreements with other Member States.

Outsourcing has also created both challenges (**Slovenia**) and benefits (**France**, **Italy**). For example, **France** experienced benefits relating to the outsourcing of visa applications. Firstly, outsourcing ensured better reception of applicants, with less queues and delays. Moreover, outsourcing enabled consulate services to devote their time to examining the applications without being burdened with administrative tasks. This furthermore helped to combat fraud in countries with strong migratory pressures. In **Slovenia**, however, the introduction of outsourcing was considered a challenge since it required entrusting external companies with national visa procedures.

The importance of cooperation with third countries was highlighted by a number of Member States. In **Poland**, cooperation with the Eastern Partnership countries and with the citizens of the Western Balkans was important due to the obstacles created by the EU acquis relating to visas, with the Eastern Partnership Agreement considered particularly successful. This Agreement, adopted on the initiative of **Poland** and **Sweden**, provides for the gradual opening of the EU borders for citizens of these countries, guaranteeing them a privileged position in accessing the labour market and opening dialogue on a visa-free travel regime. Cooperation with authorities from other Member States has also been identified as a success by a number of Member States, including **Poland**.

## 6.2 Challenges and success factors for preventing irregular migration

Member States identified a number of challenges and success factors for preventing irregular migration throughout the visa process, both relating to Schengen and national type "D" visas. The main challenge identified concerns finding the right balance between facilitating legal migration with national type "D" visas, while also combating irregular migration including the risk or potential for overstaying.

In **Germany**, the verification of the applicant's willingness to return and the collection of information on methods used to obtain visas under false pretences have been considered successful. Moreover, imposing obligations on visa applicants to report back to national embassies in their third country following return has been seen as a beneficial step towards preventing irregular migration. In **Ireland**, re-entry visa checks are considered by the Irish Naturalisation and Immigration Service (INIS) to be a useful layer of immigration control, particularly with regard to children, as they help to uncover anomalies regarding the residence or movement of children in and out of the state. The checks have also helped, for example, to reveal instances of social welfare fraud related to the payment of child benefits. In **Italy**, in order to test the applicant's will to return to countries with strong irregular migratory pressure, a "risk assessment" takes place during the interview. In order to avoid overstaying, Consulates may request the visa holder to report to the Consular site upon return and, in case of missed fulfilment, an alert can be launched to the Public Security Authority through the Ministry of Foreign Affairs. In **Lithuania**, the Consular Procedures Management System has been considered beneficial to combat irregular migration, as it allows to check whether visa applications have been processed previously for third-country nationals and whether the application contains contradictory information.

The role of personnel was considered to be of importance for the success of visa procedures in **Finland** and **Latvia**. In **Finland**, diplomatic personnel processing visa applications play a crucial role in preventing illegal entry. This is due, in part, to sufficient resources, good motivation, good understanding of local circumstances and experience. Practical cooperation among authorities was also considered to be important. In **Latvia**, one of the most important factors for organising work within the area of visa issuance is a well-considered management of work and distribution of functions among the officials and employees involved in the visa process.

With regard to activities undertaken during the visa procedures, a number of challenges were identified which could lead to the ineffective prevention of irregular migration. These include the abolition of internal borders in the Schengen zone (**Estonia**, **Slovenia**); falsification and trafficking of visas (**Italy**); lack of guidelines on visa issuance for specific third-country regions at risk (**Lithuania**); improper use of the visa regime for asylum applications (**Netherlands**); obtaining visas under false pretences (**Poland**); and delays in transport carriers submitting information to the authorities (**Sweden**).

Information exchange was considered successful in a number of Member States. In **Ireland**, the Investigations and International Liaison Unit (IILU) works closely with its counterpart in the **United Kingdom** to investigate instances of potential fraud and abuse. A Memorandum of Understanding was recently signed between these two Member States to enforce their successful cooperation, focusing on the exchange of information on Nigerian visa applicants. **Ireland** and the **United Kingdom** significantly increased the extent of data sharing in relation to visa applications outside the Schengen zone. In November 2011, a Memorandum of Understanding was signed which has the effect that visa application data from eight specific countries (Bangladesh, China, Ghana, India, Iran, Nigeria, Pakistan, Sri Lanka) would automatically be shared between the United Kingdom Border Agency (UKBA) and INIS. This was considered an important step in preventing irregular migration through this migratory route.

Cooperation with countries of origin was considered successful in **Poland**, with information campaigns established in the countries of origin informing third-country nationals of the dangers of irregular migration.

**Ireland** reported that the Common Travel Area (CTA) with United Kingdom presents challenges to INIS and the Garda National Immigration Bureau, since the CTA removed all passport or visa controls for Irish and UK citizens travelling between the Member States. Though the CTA applies only to these citizens, it has been found that there are in fact increased opportunities for other nationality groups to evade immigration controls.

A number of successes were experienced in the **United Kingdom**. For example, a register of sponsors for Tier 4 of the Points-Based System reduced the number of educational institutions accredited to recruit international students, following a study which showed that compliance by students at private educational institutions was lower than at public ones and an analysis highlighted high forgery detections rates and port refusals for Tier 4 visa holders. Moreover, the **United Kingdom** improved understanding of migrant behaviour through two analyses of administrative data which provided evidence about migrant behaviour and common pathways through the immigration system and informed several visa policy changes.

## 7. CONCLUSIONS

This EMN Study has demonstrated that, in the majority of Member States, in relation to national type "D" visas, a strong nexus exists between visa and migration policy, with practices not only serving to manage migration, in terms of controlling and facilitating entry and admission to the EU territory, but also to promote legal migration and prevent irregular migration.

In many Member States, national visa policy has been used to facilitate and, in some cases, promote particular types of legal migration, such as economic migration, migration of highly-skilled workers and/or from specific third countries. In these cases, visa procedures are geared to simplify the process of entry and admission. In all Member States, visa policy is used in the prevention of irregular migration. Only a few Member States (**Austria**, **Finland**, **Sweden**) have kept the visa and migration policy areas strictly separate, with visas reserved for short-term travel (e.g. for tourism, business visits) and residence permits for migration for study, employment or family reunification purposes.

The form of this nexus between the EU Member States differs greatly however. A strong nexus between national visa policy and migration management can be discerned specifically in **France**, **Slovenia** and the **United Kingdom**, where the national visa policy and practice have been fully geared to support the Member State's national migration strategy. For example, in the **United Kingdom**, national type "D" visas are issued to those applicants who meet the requirements for a particular Tier of the Point-Based System. At the same time, this visa constitutes a residence entitlement in itself, hereby simplifying the entry and stay of individuals who, according to its migration policy and legislation, the Member State has set out to attract to its territory. **France** has also introduced a new national type "D" visa which constitutes a residence title, as part of its wider migration policy to gradually merge most of their long-stay visas with residence permits.

Other Member States (**Austria**, **Belgium**, **Bulgaria**, **Estonia**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Lithuania**, **Netherlands**, **Luxembourg**, **Malta**, **Poland**) have adopted a similar approach, i.e. to facilitate or promote legal migration through national type "D" visas, but in a more fragmented and less integrated manner, with these visas primarily being used as a travel or single entry permit, with a limited duration, or as a temporary residence title which expires once the residence permit is issued.

Member States' national visa policies show variation with regard to:

- The range of migratory purposes for which visas are issued (e.g. migration for study, employment, family reunification or humanitarian purposes);
- The target groups (e.g. third country origin, skills level, etc.) to which visas are issued;
- The "function of the visa" in terms of managing migration (e.g. visa as a travel/entry permit; visa as a temporary residence title, before a permanent one is granted in the Member State);
- The validity of the visas; and
- The procedures for applying, examining, extending, and withdrawing these visas.

Importantly, it appears that all Member States have not applied an overarching principle or theory in the decisions over time as to whether or not a migrant from a specific third country who wishes to study, work or be reunited with his/her family is to apply for a national type "D" visa in the country of origin and/or a residence permit in the country of origin or upon arrival in the Member State. Rather historic or ad hoc considerations seem to have influenced Member States' decisions on how best to manage migration. A mosaic of visa and residence permit requirements therefore exists in several EU Member States.

The Study has also provided insights into the factors that affect the level of success with which Member States' national visa policy facilitates legal migration and prevents irregular migration. With regard to the facilitation and promotion of legal migration, some Member States emphasise their belief that its image as a potential, attractive destination country for migration is largely dependent on the ease and speed with which third-country nationals can put together an application

for a visa, submit it and receive a decision on it. Key factors in offering a simple and fast procedure to visa applicants are having sufficient financial and human resources (e.g. also through secondment of staff), know-how (e.g. regarding the detection of false documents and other fraudulent practices), technology (e.g. e-applications where applications, payments and appointments for visas are processed online), national authorities with a clear mandate, cooperation within and between Member States, bilateral and multilateral agreements with third countries, the setup of specific procedures (e.g. fast-track) or the fine tuning of existing procedures to reduce case handling times and improve customer service.

The case studies highlighted some of these factors, which were adopted by Member States as part of their national visa policy vis-à-vis a particular third country. The case study of China, for example, demonstrated how both the **Netherlands** and **Sweden** provided *bona fide* representatives of different sectors, such as the business sector or scientific institutions, access to simplified application procedures under which, for example, an interview would not be necessary and the applicant would not need to be present at the embassy or consulate when the application is lodged. The simplified application process makes business operations easier, thereby promoting trade and industry. In addition, both **Ireland** and the **Netherlands** also marketed their national educational services in China to attract students. Both strategies proved that visa policy can be used as a migration channel for a (preferred) subset of migrants – in this instance students and highly-skilled workers from China –, with an increase in the number of visa applications for reasons of education and employment and related residence permits.

Similarly, the case study of Nigeria suggests that visa policies can contribute, in part, to preventing or curbing illegal entry. **Finland** used a variety of measures allowing for the early identification of potential abuse of specific visas and residence permits, and even criminal intent, such as mobilising extra staff resources when needed, providing training to embassy personnel, sending liaison officers to assist them in the identification of forgeries during the inspection of documents and in the execution of interviews. **Ireland** collected biometric data of applicants and used these to establish and verify identity and to support decisions on subsequent visa applications (e.g. previously compliant visa record). The success with which these Member States detected, and eventually reduced the number of disingenuous applications illustrated the effectiveness of applying a strategic national visa policy to restrict illegal entry.

The Study has also indicated the impact that EU acquis has had on national visa policy in the Member States. For EU-10 Member States in particular, they found that on accession to the Schengen Area, the possibilities of shaping an independent national visa policy were reduced substantially. Furthermore, upon harmonising the procedures of admission of applications and adoption of decisions on visas, modifications were necessary regarding the national regulatory acts previously in force and the national procedures applied. These steps towards EU harmonisation of visa policy are commonly recognised as helping with the fight against irregular migration. However, some of the EU-10 Member States regret the loss of simpler procedures for travel and migration from their neighbouring non-EU countries. Visa facilitation and exemption agreements have been welcomed by some as a (partial) solution for this problem, while other Member States have warned about the dangers of this route fostering particular, sometimes new, forms of irregular migration.

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# ANNEX 1

Table A1.1 provides an overview of all Member States' selection of case studies on third-countries. The rationale is subdivided in different categories, and includes: influx related to tourism, asylum, a high number of visa applications and immigrants, historical ties, cultural and economic ties, prevention of irregular migration, lifting of visa requirements and 'other'.

## Table A1.1 Selection of third-country case studies by Member State

| Member State | Case Studies | Rationale |
|---|---|---|
| **Austria** | India | India was selected based on the involvement of external service providers acting on behalf of the Member State in the visa application process. |
| | Nigeria | |
| **Belgium** | Turkey | **High number of visa applications and immigrants**<br>Additionally, Turkey was selected due to a concluded bilateral agreement on Turkish workers and their family members, the EU association agreement as well as the ECJ *Soysal* decision. |
| | Congo | **Historical ties and influx of both visa applications and immigrants** |
| **Bulgaria** | Russian Federation | **Historical and economical ties** |
| | Turkey | Turkey was selected out of a desire to intensify cooperation on migration. |
| **Germany** | Russian Federation* | **Influx related to tourism, historical and economic ties**<br>Additionally, Russian Federation was selected due to a concluded bilateral visa facilitation agreement. |
| | Serbia | **Other reasons**<br>Serbia was selected following lifting of the visa requirement. |
| **Estonia** | Russian Federation | **High numbers visa applications, historical and cultural ties** |
| | Georgia | **Other reasons**<br>Sharp recent increase of visa applications following the opening of a foreign representation in Tbilisi. |
| **Greece** | Russian Federation | **Influx related to tourism** |
| | Pakistan | **Prevention of irregular migration** |
| **Finland** | Russian Federation* | **Influx related to tourism, historical, economic and cultural ties**<br>Finland applies a favourable policy to all nationals of Russian Federation applying for a visa. The majority of visa applications come from Russia (95% in 2010). Finland has therefore streamlined the application process to manage the constantly growing number of applications. |
| | Nigeria* | **Prevention irregular migration**, especially in relation to document forgery.<br>Finland mobilises extra staff at the embassies when needed and implemented an "appointment" system. |
| **France** | Algeria | **High number of visa applicants, and historical ties**<br>Additionally, France has concluded several cooperation agreements as well as a bilateral visa exemption agreement for short-stay visa holders of diplomatic passports and an agreement on the circulation, employment and stay of Algerian nationals and their families. |
| | China* | **High number of immigrants, especially students, strong economic and trade relations** |

| Member State | Case Studies | Rationale |
|---|---|---|
| **Hungary** | Ukraine | **Other reasons**<br>Ukraine constitutes a clear example of Hungarian visa policy which is based on ethnic principles focusing specifically on neighbouring countries. HU concluded a local border traffic agreement which grants a residence permit to persons who were permanently resident in the border area for at least three years. |
| | China | **Other reasons**<br>China was selected as the Chinese constitute the biggest non-ethnic Hungarian community. |
| **Ireland** | China* | **High number of visa applications** (students)<br>Irish visa policy focuses on attracting Chinese students whilst tackling misuse of student visa applications. |
| | Nigeria* | **Prevention irregular migration**<br>Nigeria was selected following the introduction of biometric data gathering for Nigerian nationals applying for a visa. |
| **Italy** | Albania | **High number of immigrants**<br>To prevent irregular migration, a Readmission Agreement was concluded in 1997. A Bilateral Agreement on Migration for employment reasons was also concluded in 2011. Italy's policy includes entry quotas for Albanian workers and there were regularization measures in 2002 and 2009 to allow irregular workers to legalize their stay. |
| | Moldova | **High number of** (irregular) **immigrants**<br>In 2011, the bilateral agreement regarding the entry of Moldovan citizens in Italy was renewed. The Agreement covers the regulation of the flow of workers, with the aim of satisfying both labour supply and demand. |
| | Senegal | **High number of immigrants both regular and irregular**<br>Among the Sub-Saharan African countries, Senegal has the largest Diaspora in Italy. At the end of 2010, in the data archives of ISTAT National Institute of Statistics, there were 80,989 Senegalese residents (17$^{th}$ country on the list) with a rate of annual growth of 11.5% compared to 2009. Italy has not signed formal agreement with Senegal, neither on managing of migratory matters, nor on readmissions, but has expressed a clear interest in concluding one. |
| **Latvia** | Belarus | **Historical ties and a high number of immigrants**<br>In 2010 an agreement was concluded on simplification of mutual travel for persons living in the border region. |
| | Turkey | **Other reasons**<br>Turkey was selected as cooperation ties between Turkey and Latvia are well established and Turkey is amongst the top ten countries to which the most visas are issued. |
| **Lithuania** | Russian Federation | **Historical and cultural ties and high number of immigrants**<br>A visa Liberalisation Dialogue was initiated in 2007. Facilitated transit scheme (2002). |
| | India | **Prevention irregular migration.**<br>Highest number of refused visa applications. |
| **Luxembourg** | China | **High number of immigrants** in addition to well established trade relations. |
| | Russian Federation | **Economic relations and high number of visa applications** |
| **Malta** | No case studies specified | NA |
| **Netherlands** | China* | **High number of immigrants** (and short-stay visas)<br>NL's visa policy towards China has an underpinning strategy: facilitating travels of business travellers ("orange-carpet-policy") whilst preventing human trafficking (within the context of the Wall programme which aims to combat organised crime). |

| Member State | Case Studies | Rationale |
|---|---|---|
| | South-Korea | **Other reasons**<br>South Korea was selected following abolishment of the requirement to hold a Regular Provisional Residence Permit (MVV= a long-stay national type "D" visa). |
| **Poland** | Ukraine | **Historical ties and high number of immigrants**<br>Implementation of the visa liberalisation regime as well as local border traffic. |
| | Vietnam | **Prevention irregular migration**<br>Readmission agreement. |
| **Sweden** | China* | **High number of visa applicants** (business travellers and students)<br>Sweden facilitates travels for business travellers who receive bona fide handling of visa applications. |
| | India | **High number of immigrants** (qualified workers). |
| **Slovenia** | Serbia | **Other reasons**<br>Serbia was selected as it is an important neighbouring country in the western Balkans. |
| | Turkey | **High number of visa applicants**<br>The aim is to advance relations with Turkey in the field of migration, in particular as Slovenia constitutes a neighbouring country on the Western Balkan route. |
| **Slovak Republic** | Canada | **Other reasons**<br>Canada was selected on account of a large Slovak community in Canada. The Slovak Republic concluded a bilateral agreement to simplify the regulation of entry and stay of young citizens (students and university graduates between 18-35 years of age). The agreement represents a very first bilateral agreement with and explicit nexus between national visa policy and facilitation of the legal migration |
| | Ukraine | **Other reasons**<br>Ukraine was selected as it constitutes the only neighbouring third country from which the highest number of legal as well as irregular migrants are coming from. Slovak Republic has concluded a number of bilateral agreements with Ukraine which have an effect on migration flows. |
| **United Kingdom** | Taiwan | **Other reasons**<br>Taiwan was selected following the lifting of visa requirements. |

*Case Study selected due to specific strategy applied in Member States to specific categories of persons, aiming to either facilitate legal migration or prevent irregular migration.

## ANNEX 2

Table A2.1 provides an overview of authorities involved during application, examination and entry/exit in the Member States.

**Table A2.1 Authorities involved during application, examination and entry/exit**

| Member State | Authorities Application Stage | Authorities Examination Stage | Authorities Entry/Exit |
|---|---|---|---|
| **Austria** | Diplomatic and Consular authorities<br>Federal Ministry for European and International Affairs<br>External Service Providers | Diplomatic and Consular Authorities (The Labour Market Service in specific cases) | Aliens' Police |
| **Belgium** | Belgian Diplomatic or Consular Post<br>External Service Providers | Immigration Service<br>Belgian diplomatic or consular post<br>Public Prosecutor's Office | Border control officials<br>Municipality<br>Immigration Service |
| **Bulgaria** | Diplomatic and Consular missions<br>Border Control Authorities | Minister of Foreign Affairs<br>Consular Offices | |
| **Germany** | Diplomatic Missions of the Federal Republic of Germany | Consulates<br>Federal Intelligence Service<br>Federal Office for the Protection of the Constitution<br>Military Counter Intelligence Service<br>Federal Criminal Police<br>Customs Criminological Office<br>Federal Employment Agency | Federal Police<br>Immigration Authorities |
| **Estonia** | Estonian Foreign Representations<br>External service provider; Pony Express (Russia) | Consulates<br>Ministry of the Interior<br>Security Police Board<br>Police and Border Guard Board | Police and Border Guard<br>Ministry of Foreign Affairs<br>Security Police Board |
| **Greece** | Ministry of Foreign Affairs | Ministry of Foreign Affairs<br>Ministry of Interior / Decentralized Authorities of the State (authorisation prior to the entry) | Ministry of Citizen Protection and Public Order/Border Crossing Points |
| **Finland** | Diplomatic Missions<br>Finnish Border Guard<br>Finnish Customs<br>External Service Provider: VFS Global | Diplomatic Missions<br>Ministry of Foreign Affairs<br>Finnish Security Intelligence<br>Border Guard<br>Customs | Border Control Personnel<br>Police |
| **France** | French Embassies<br>Consular Posts<br>External Service Providers | Consular Services<br>Ministry of Interior<br>Administrative Bodies | Prefecture |
| **Hungary** | Consulates<br>Office of Immigration and Nationality | Bureau of Constitutional Defence and Counter Terrorism Centre | Border Posts<br>Office of Immigration and Nationality |
| **Ireland** | Irish Naturalisation and Immigration Services<br>Department of Foreign Affairs and Trade<br>Embassies and Consulates | Department of Justice and Equality<br>Diplomatic staff<br>Department of Foreign Affairs and Trade | Immigration Officers who decide on permission to land |

| Member State | Authorities Application Stage | Authorities Examination Stage | Authorities Entry/Exit |
|---|---|---|---|
| **Italy** | Italian Diplomatic and Consular Representations | Diplomatic and Consular Missions | Border Control Authorities<br>Police Immigration Office<br>Ministry of Foreign Affairs |
| **Latvia** | Office of Citizenship and Migration Affairs<br>Consular and Diplomatic Representations | Office of Citizenship and Migration Affairs<br>Consular and Diplomatic Representations<br>Constitution Protection Bureau Security Police | State Border Guard<br>Office of Citizenship and Migration Affairs |
| **Lithuania** | Diplomatic representations, Migration department | Embassies and Visa Services<br>State Border Guard Service State Security Department | State Border Guard Service |
| **Luxembourg** | Luxembourgish, Belgian, Dutch, German, French, Hungarian, Slovenian, Portuguese or Spanish Diplomatic posts<br>Passport and Visa Office (Ministry of Foreign Affairs)<br>Directorate of Immigration (Ministry of Foreign Affairs) | In case of a C visa the application can be examined ex-officio by the Diplomatic Missions of the other Member States. If not by the Passport and Visa Office.<br>In case of D visa the application has to be examined by the Directorate of Immigration | Border Control Authorities of Members States with external borders.<br>Grand Ducal Police in the only external border (Luxembourg International Airport).<br>Directorate of Immigration in case of D Visas |
| **Malta** | Ministry of Interior<br>Diplomatic and Consular Posts | Diplomatic Missions<br>Consular Posts<br>Ministry of Interior<br>Malta Police Force, Employment and Training Corporation,<br>Department of Citizenship and Expatriate Affairs | Border Control Authorities<br>Police |
| **Netherlands** | Ministry of Foreign Affairs<br>Immigration and Naturalisation Service<br>Ministry of the Interior and Kingdom Relations | Ministry of Foreign Affairs<br>Immigration and Naturalisation Service<br>Ministry of the Interior and Kingdom Relations<br>Ministry of Social Affairs and Employment<br>Centre for Work and Income | Ministry of Foreign Affairs<br>Ministry of Defence<br>Ministry of the Interior and Kingdom Relations<br>Immigration and Naturalisation Service<br>Aliens Police<br>Repatriation and Departure Service |
| **Poland** | Consular Posts | Consular Posts<br>Border Guard<br>Police<br>Internal Security Agency Foreign Intelligence Agency Minister of Foreign Affairs Office for Foreigners | Border Guards<br>Police<br>Office for Foreigners<br>Minister for Defence<br>Internal Security Agency<br>Foreign Intelligence Agency<br>Customs Service |
| **Sweden** | Swedish Missions abroad<br>External Service Providers<br>Border Police (for Visa Applications at Border Crossings) | Swedish Missions<br>Swedish Migration Board<br>Ministry of Justice | Police<br>Swedish Customs Service<br>Swedish Coast Guard<br>Swedish Migration Board |
| **Slovenia** | Ministry of Foreign Affairs | Diplomatic Consular Missions Border Control Bodies<br>Police<br>Ministry of Foreign Affairs | Border Control Bodies |

| Member State | Authorities Application Stage | Authorities Examination Stage | Authorities Entry/Exit |
|---|---|---|---|
| **Slovak Republic** | Ministry of Interior<br>Diplomatic Missions and Consulates<br>Police | Ministry of Interior<br>Ministry of Foreign Affairs<br>Diplomatic Missions and Consulates<br>Police | Border Guards<br>Police<br>Embassies and Consulates |
| **United Kingdom** | UK Border Agency<br>External service providers (VFS Global and World Bridge Service) | UK Border Agency | UK Border Agency<br>Ports Policing<br>Security Service (MI5) |