



EMN INFORM

Visa Policy as Migration Channel¹

1. Aims

The EMN Study on *Visa Policy as Migration Channel* analyses the 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 challenges and best practice.

The study focuses mainly on Member States' practices relating to long-stay visas (so-called "national type "D" visas"). Short-stay "Schengen type "C" visas" were also examined in respect of their impact on Member States' national visa policy.

2. Key findings

- There is strong evidence that a nexus does exist in a number of Member States between visa and migration policy, with practices serving to manage migration, both in terms of facilitating entry and admission and preventing 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 for the purpose of study, migration of highly-skilled workers and/or migration 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 across the Member States. There is no overarching principle or theory applied in many instances on whether a migrant from a specific third country must apply for a national type "D" visa and/or a residence permit in the country of origin, or upon arrival in the Member State.
- Historic or ad hoc considerations relating to changes in migration trends and circumstances seem to have influenced Member States' decisions on how best to use visa policy to manage migration, and a mosaic of visa and residence permit requirements therefore exists in several EU Member States.

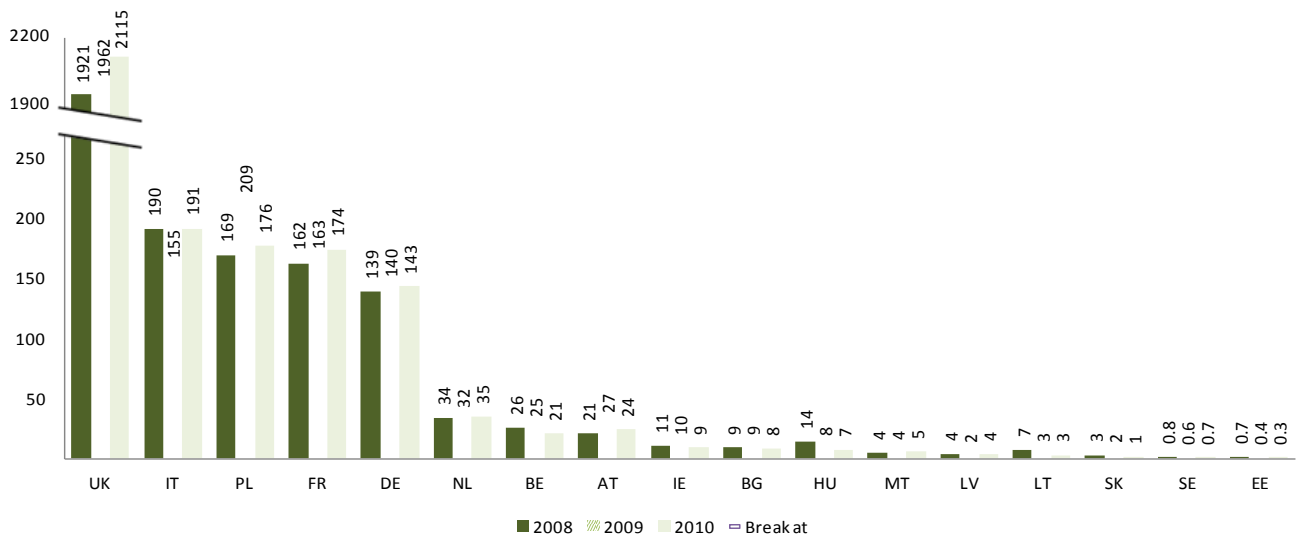
3. Overall Findings

In recent years, the number of national type "D" visas issued by Member States has increased

The number of national type "D" visas issued by Member States increased from around 2.68 million in 2008 to 2.88 million in 2010 as shown in Figure 1 below:

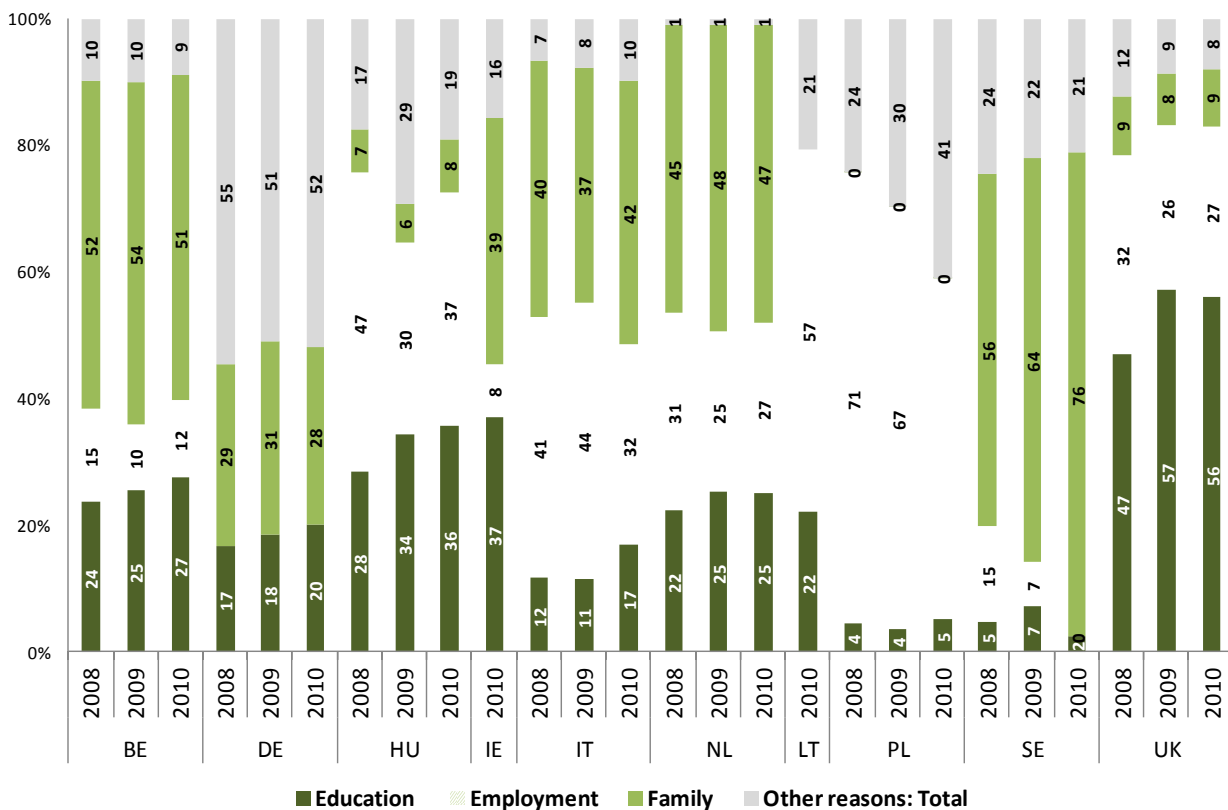
¹ The Synthesis Report of the study, along with the National Reports from 21 Member States (Austria, Belgium, Bulgaria, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovak Republic, Slovenia, Sweden, United Kingdom) is available from www.emn.europa.eu, under "EMN Studies". Additionally a National Report from Spain is also available.

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Figure 1: National type “D” visas issued, 2008-2010 (in 1 000s).

Source: EMN National Reports.

There is a wide variation in the purpose (education, employment, family, other) for issuing long term “D” visas between the Member States, which tends to be connected with the national visa policy in place in the Member States, with some focussing on certain migration reasons.

Figure 2: National "D" visas issued by purpose, 2008 – 2010

Source: EMN National Reports.

In most Member States, issuing national “D” visas is a key element of migration management

Overall the policy and practices related to the issuing of national type “D” visas constitute, in most Member States, a first and essential element of migration management. The issuing of national type “D” visas is a key stage in the admission and immigration process, with a view to long-term stay.

There were significant changes in the national vision and policy relating to national type “D” visas over time in a number of Member States. They can be 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 by facilitating entry conditions for these migrants.

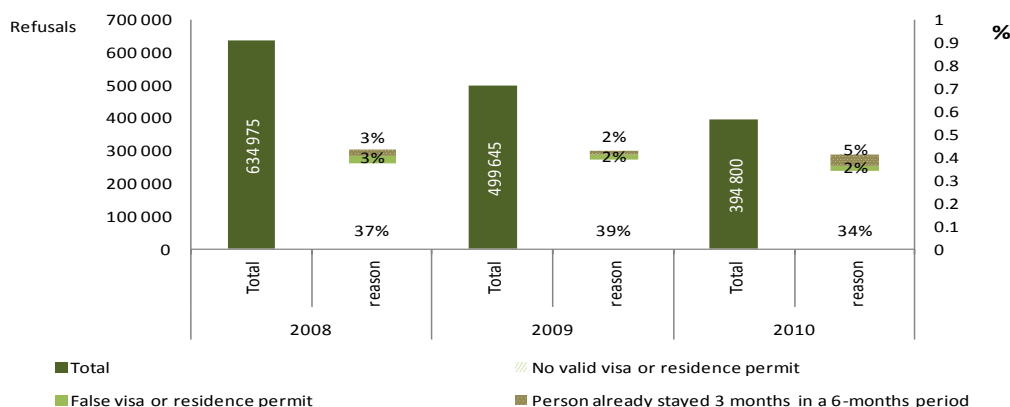
The extent to which visa policy and practice are used as a migration management tool varies

Four groups can be broadly identified in relation to national visa policies and practices. 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 includes 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 pre-requisite 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, such as practices facilitating entry for minors and other groups.

National visa policy, acting as a form of pre-entry procedure to ensure that third-country nationals comply with entry requirements, helps to prevent irregular migration

The number of third-country nationals refused entry at the external border² 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 ranging from 39% (2009) to 34% (2010).

Figure3: Third-country nationals refused entry at the external borders (Member States), by reason, 2008-2010



Source: Eurostat.

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. Having, for example, Member State missions abroad determining whether a third-country national should be granted an entry permit may prevent the need to terminate an irregular status *ex post facto*.

² The external border is defined as in the Schengen Borders Code (Council Regulation (EC) No 562/2006, Article 2.2). For countries which are not in the Schengen area, the external border is the same as their international border.

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 at embassies and consulates, as well as national authorities such as border agencies; and cooperation and information exchange with other entities and Member States. Other preventive measures include use of biometric data in the visa application process; identification of specific categories of migrant as high risk of visa misuse and subject to particular attention; awareness raising of the enforcement procedures in the Member States to inform applicants of the consequences of fraudulent applications; and, for some Member States, the use of ‘black lists’ of third-country nationals that have previously breached conditions for entry and stay.

Visa processes can facilitate movements of specific groups, in line with policy priorities, for example, students and highly qualified migrants, through cooperation with third countries

Member States have entered into a number of bilateral agreements with third countries in order to facilitate migration which have an effect on their national policy for type “D” visas. These agreements vary, but focus on aspects such as youth mobility and professional migration, including highly qualified work, and may facilitate the visa process, such as providing an exemption for the visa fee and abolition of the visa conditions.

Case studies, presented in the EMN National Reports, on cooperation between Member States with China, Nigeria and the Russian Federation suggest that national visa policy is used as a migration channel in relation to long-stay visas. Specific measures undertaken with these third countries include bilateral agreements, memorandum of understanding and programmes/schemes which aim to facilitate the movements of migrants, by relaxing specific visa regimes, as well as to prevent illegal entry by identifying migration routes which are most at risk.

EU policy and legislation have impacted on visa policy in the Member States but national type “D” visa policy can still be shaped to reflect policy priorities at national level

Many Member States have had to amend their visa policy relating to national type “D” visas due to the impacts EU policy and legislation 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.

Identified challenges and success factors

A number of challenges and success factors have been experienced by Member States in relation to national type “D” visas. For the facilitation of legal migration, the efficiency of procedures during the application process and treatment of visa applications were considered to be of high importance in order to attract third-country nationals, with focus placed on speedy / ‘fast-track’ procedures as well as cooperation with consulates abroad. For reducing irregular migration, a main challenge identified by Member States is to find the right balance between facilitating legal migration with national type “D” visas, while also combating irregular migration, including the potential for overstaying. 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, obtaining visas under false pretences, including the improper use of visas by third-country nationals wishing to apply for asylum upon arrival, and delays in transport carriers’ belated submission of information to the authorities. Information exchange, cooperation with countries of origin and the strategic role of personnel at key stages of the process were considered to be important for the success of visa procedures.

4. Further Information

Should you have specific questions or require further details, please contact the EMN via HOME-EMN@ec.europa.eu. *Produced: December 2012*