



Re-thinking approaches to labour migration

Potentials and gaps in four EU member states' migration infrastructures

Case Study Summary Estonia

This summary briefing is part of a series of publications mapping legal pathways for labour migration and mobility to EU countries commissioned by ICMPD's Migration Partnership Facility (MPF) in the context of their efforts supporting the enabling environment for labour migration to the EU.

It summarises existing legal labour migration pathways and their use in Estonia. It provides suggestions for adaptations in order to better serve the needs of the Estonian labour market and to explore potentials for migration and mobility pilots in the context of the EU Talent Partnership Framework.

The full case studies, along with an overarching policy brief which analyses the findings from all of them, can be downloaded at www.migrationpartnershipfacility.eu.

KEY MESSAGES

- Foreign workers are needed now and in the future, to address labour shortages in Estonia, which exist across various sectors and skill levels in the economy.
- Labour migration policy, which has typically been aimed at attracting workers to high-skilled sectors, could be adjusted to also address shortages in low-skilled sectors.
- Estonia's quota system could be made more flexible to allow employers to respond to labour needs. Yet, political reservations exist for opening further pathways for lower-skilled migrants.
- Estonia has implemented some innovative pilot programmes to attract workers in high-skilled sectors: digital nomad visas, start-up visas and e-residency. All three schemes have shown much promise and could benefit from more investment to increase the numbers of people coming through these pathways. Doing so would support Estonia's growing ICT sector.

BACKGROUND AND CONTEXT

Estonia is transitioning from formerly being a country of emigration to one of immigration. Since 2015, and up until the latest available data, 2021, the country has had a positive yearly migration balance (Statistics Estonia). The rise in immigration derives from Estonia's sustained economic growth over the past two decades, as well as structural labour shortages as a result of emigration and demographic ageing.

Migrants play an important role in the Estonian economy. Migrants tend to work in manual, low-skilled jobs such as in the construction industry, but also in the ICT sector. Migration to Estonia is often temporary or cyclical by nature. Among the non-EU nationals in Estonia, Ukrainian and Russian citizens were the largest groups. Ukrainians and Russians are also the largest group of emigrating non-EU citizens from Estonia, which demonstrates that migration there is often circular.

CURRENT AND FUTURE LABOUR SHORTAGES

Labour shortages exist across various sectors of the Estonian labour market. Employers in Estonia have stated that labour shortages are an important barrier to the expansion of production.

There are four occupations for which there are currently large labour shortages: IT (software) developers; health carers in hospitals; welders and flame cutters; and audiologists and speech therapists.

Labour shortages are projected to persist in the future, and many of these sectors are also those which have typically employed migrant workers. Future labour shortages in sectors which employ migrant labour are anticipated: in the timber industry of qualified workers; of trained young graduates for the manufacturing of electronic products; in the construction sector across a

wide range of occupations; in agriculture; in ICT and in services and trade.

In the third quarter of 2021, the three sectors with the fastest rate of GDP growth were information and communication, construction, and transportation and storage. Sectors which will be productive in Estonia and which will see employment growth will predominantly be high-skilled, whereas employment growth will decline in low-skilled sectors.

Evidence suggests that alternative labour market policies, such as measures to encourage the participation of currently inactive members will not be sufficient to fill gaps across the labour market, meaning that Estonia will need to recruit foreign workers.

LABOUR MIGRATION POLICY IN ESTONIA

Estonia does not have a coherent or explicit overarching migration policy strategy which ties the different areas of migration policy together. Estonia's approach has been selective, shown by its quota system, and based on the needs of employers, and has sought to protect the local labour market.

Labour migration policy in Estonia has typically focused more on attracting workers to work in high-skilled sectors over low-skilled sectors, partly due to political reasons. Since the rise in popularity of the anti-immigration Conservative People's Party of Estonia (EKRE) beginning in 2015, immigration policy has become increasingly restrictive towards migrants working in low-skilled sectors. There has been little discussion of the role of labour migration in addressing labour shortages in low-skilled sectors, instead, protecting the employment of Estonian workers has been a government priority.

LEGAL MIGRATION PATHWAYS

National quota system

Since the 1990s, Estonia has applied a quota system for the issuing of temporary residence permits, which is set at 0.1% of the population. For 2022, the immigration quota is 1,311 temporary residence permits. The quota system does include some exemptions for certain types of foreign workers, such as IT specialists, start-up entrepreneurs, engineers and researchers. Foreign workers in these occupations are exempt from quotas to foster labour immigration with high added value to the economy.

The quota system has come under criticism, especially from employers and employers' associations who argue that the quota does not provide employers with enough flexibility to hire foreign workers throughout the year and therefore result in shortages. It is also argued that quotas are the cause of employers having to rely on temporary forms of labour, since quotas preclude the issuing of longer-term residence permits. Employers also criticised the 2020 amendments, which divided the quota allowance between different occupations, with each sector having its own quota, as there were some sectors for which the demand for workers exceeded the number of workers permitted by the quota.

Temporary residence permit

Temporary residence permits can be issued for the purpose of work, study, family reunion or entrepreneurship reasons, with work being the most common reason. Employers must submit a request to the Estonian Unemployment Insurance Fund who then carry out a labour market test, although only very rarely are employers' requests rejected. Temporary residence permits are regulated through the quota system. These permits are only issued if an employer pays a salary above the annual average wage in Estonia, although this does not apply to all professions. A temporary residence permit for employment is granted for a maximum period of five years, after

which it can be renewed for a ten-year period. After five years of continuous residence on the basis of a residence permit, foreigners may apply for a long-term residence permit (EMN n.d.-a.). In 2020, Estonia issued 4,710 first-time residence permits.

Temporary and seasonal migration

The majority of foreigners do not apply for residence permits when coming to Estonia, but instead they enter via temporary and seasonal work schemes for which a residence permit is not required. To make use of this pathway, foreigners need to be registered by their employers with the Police and Border Guard, unless otherwise permitted by law. Short-term migrant workers can stay in Estonia for a maximum of 365 days within 455 consecutive days (EC n.d.). Short-term workers usually enter with long-stay visas (D-Visa), (short-stay visas are mainly issued for reasons such as tourism or family visits). Short-term migrant workers do not count towards the quota, which explains why the D-Visa has become an alternative to temporary residence permits for employment. The D-Visa is also more commonly used since the processing times are much shorter than for temporary residence permits (Luik 2019: 37). The employer is obliged to pay the employee at least the Estonian average gross salary. There is no labour market test. In 2019, Estonia issued 25,672 long-term D visas. Ukrainians are by far the most numerous users of these short-term work visas, and most registrations were for employment in agriculture, construction and manufacturing.

Seasonal workers (covered by the EU Seasonal Workers Directive) are a subgroup of those registered for short-term employment, and can be registered for up to 270 days during a year. The employer must show proof of adequate accommodation. Seasonal workers can only be registered in sectors that are determined through a regulation by the Government and they do not fall under a mandatory minimum wage criterion (EMN 2020). Agriculture, forestry and fishing are the most common sectors for seasonal work, and most seasonal workers come from Ukraine. The number of short-term workers registered for seasonal employment

has grown to 5,023 in 2019, compared to 2,782 registrations in 2018 and 1,150 in 2017.

Interviewees in this study representing employees in the agricultural sector highlighted that the current visa and residence permit system is not efficient nor satisfies the needs of the employers and farmers. At the same time, employers of seasonal workers in Estonia do not always uphold the rights of workers, for example, by not paying workers the required minimum salary.

European legal provisions and their use

Estonia has transposed all relevant EU migration directives into the Aliens Act and provisions are effectively in use. The **EU Blue Card**, while having been transposed in Estonian law, has not played a significant role in facilitating high-skilled labour migration compared to the national policies and schemes for high skilled workers and top specialists.

The **Seasonal Workers' Directive** was fully transposed into the Aliens Act in 2017. With this transposition, the rules for seasonal workers were simplified by abolishing the mandatory wage criterion. This is part of the reason why some employers prefer to register short-term employment as seasonal work as there is no salary criteria for seasonal workers.

The EU Directive on **intra-corporate transfer** was transposed into Estonian law in 2017, making it possible to enter, reside and work in Estonia as an intra-corporate transferee if the person is a manager, specialist or trainee employee. This pathway is not commonly used: in 2019, there were only 17 temporary residence permits issued for intra-corporate transferees.

Due to the constant lack of workforce, Estonia recruits many of its workers through the **Posted Workers' Directive**. Posted workers from outside the EU need to apply for a temporary residence permit. The employer must register the employees posted to Estonia with the Estonian Labour Inspectorate before the employee starts work, and also must ensure that the worker has equal access to working conditions. The number of posted workers coming from other EU

member states has increased, although there are no published statistics on numbers.

Policies and schemes targeting high skilled workers

Despite performing well in ICT services and in entrepreneurship, Estonia has struggled to attract workers to work in high-skilled sectors. The government seeks to change this through better communication to foreign specialists, particularly in the ICT sector.

Estonia has specific provisions for highly-skilled, 'Top Specialists'. Highly-skilled specialists with a job offer, who earn twice the average salary level, can apply for temporary residence permits for working. Permits issued to these specialists do not count towards the quota. Unlike the EU Blue Card, a labour market test does not need to be conducted. In 2018, 228 top specialist residence permits for working have been issued, 390 in 2019 and 384 in 2020, making the scheme more popular than the EU Blue Card.

The government of Estonia has confirmed its participation in the second phase of the Digital Explorer's project (for one of the tracks). The project, which has boosted cooperation between the IT sectors of Lithuania and Nigeria, could have a beneficial impact for Estonia's labour supply of IT workers, as well as benefit regional cooperation with Lithuania.

Bilateral or special labour agreements and partnerships

There are currently no bilateral agreements between Estonia and other countries to bring labour to Estonia, nor are there discussions to establish such agreements in the future beyond the exploration to offer temporary internship mobility options at a smaller-scale as part of Digital Explorers II. Between 2015 and 2017, a pilot circular migration programme that employed Georgian workers to fill the needs of the Polish and Estonian labour market needs was tested. However, no workers went to Estonia owing to the obstacles presented by labour market quotas.

Innovative pilot schemes and programmes

Digital nomad visas allow remote workers to work and live in Estonia maintaining, at the same time, employment outside of Estonia for their own company or company registered outside of Estonia. This visa was introduced in 2020 and permits stay for up to one year. Digital nomads need to meet a minimum income threshold, which in 2021 stood at €3,504 euro gross monthly salary as well as proof of insurance and ability to cover accommodation and subsistence. In 2020, only 37 long stay digital nomad visas were issued for remote work. The visa recipients were citizens of: USA, Canada, Australia, Republic of South Africa and Japan. As of June 2021, Estonia had received 93 applications and issued 65 digital nomad visas. At the end of the year, 131 such visas had been issued. Top nationalities of applicants were the USA, Russia and Canada. Estonia also views the digital nomad visa as a tool to attract ICT talent to Estonia, to facilitate the transfer of knowledge thereby adding value for the Estonian business environment and to support the start-up ecosystem. In the context of the Russian invasion of Ukraine in 2022, Estonia decided to stop the issuance of D-Visas from embassies in Russia. Given the high application numbers from Russia to date, this will also have an effect on the digital nomad visas.

The **start-up visa** is designed to attract start-up entrepreneurs, and was introduced in 2017 (Startup Estonia 2022). The visa is valid for up to 12 months and can be prolonged for another 6 months. Migrants working for a start-up can get a residence permit for up to 5 years which can be extended for another 5 year period. The immigration quota does not apply to permits issued for start-up workers. The new start-up-related legislation of 2017 led to an increase in the number of visas and residence permits issued for business purposes. More applications were received than had been anticipated, which put some strain on the immigration system. The start-up visa is complemented by the Startup Estonia scheme which has loosened regulations and made hiring easier. While Startup Estonia has been considered a success, employers still

suffer from labour shortages, and have therefore called for more flanking efforts from the government to make Estonia a more attractive place for migrants.

In December 2014, Estonia became the first country in the world to begin offering an **e-residency** or digital identity service to citizens of foreign countries, thereby allowing them to use Estonia's e-services regardless of the location of that person. It does not grant residence rights, tax residency, citizenship nor a permission to enter to Estonia or to the EU. The term e-residency may thus be misleading as it does not confer residency or working rights. E-residents can establish a company in Estonia, perform e-banking transactions, access international payment services and file the income tax returns, sign documents digitally and use other e-services provided by the Estonian public and private entities. The total number of e-residents as of 31 December 2020 was 76,070 of which 87% are male and 13% are female. In 2020, Estonia issued 12,955 e-residence permits mainly to Russian, German, Chinese, Ukrainian and Spanish citizens.

SUGGESTIONS FOR POSSIBLE FUTURE ADAPTATIONS TO LEGAL MIGRATION POLICY

Reforming the quota system

Employers find that immigration quotas prevent them from being able to hire enough foreign workers with the right skills and experience, and have therefore called for some foreign workers to be exempt from quotas. Exemptions from quotas could possibly be made in sectors facing labour shortages, or for those foreign workers who would come to Estonia for temporary rather than permanent work.

Matching labour market needs with education and training

One of the reasons behind structural labour and skills shortages in the Estonian labour market is the high mismatch between skills and available jobs; there are many available jobs for which there are not the required skills, and many graduates work in fields separate to

their field of study. Labour migration can play a role in addressing skills mismatches, but additional skills and language training is needed to fully harness this potential. Language skills training for migrant workers would allow them to work in higher-income occupations, for which employers have stated that low language skills are a barrier to employing foreigners. Re-skilling and up-skilling programmes could also be made available to foreign workers in order to fill gaps in skills of higher income occupations.

Explore partnerships with third countries for high-skilled migration in specific sectors

Estonia could look to expand on partnerships with third countries to attract workers to work in high-skilled shortage sectors, such as in ICT. Of the seven Talent Partnership countries, Pakistan and Egypt would be suitable choices owing to their large stock of ICT workers, as would Nigeria since it has the highest number of citizens in Estonia compared to the other pilot countries. The recent confirmation of Estonia's participation in the Digital Explorers scheme is an excellent step towards building links with third countries to attract workers to work in its high-skilled sectors. Included in the partnerships could be increased support to access and marketing of Estonia's existing opportunities for high-skilled specialists, ICT workers and digital nomads.

Assess flexibilisation for foreigners to work in low-skilled sectors

Estonia's labour migration policy has mainly focused on attracting migrants to work in high-skilled sectors, but attention will also need to be paid to recruiting migrants to work in low-skilled sectors as employers in these sectors still face shortages. While the government has expressed its aim to protect the employment of Estonian workers and prevent job displacement, there are still sectors for which the hiring of foreigners would limit labour shortages. Greater flexibility in the short-term work pathway, as well as further legal provisions to

hire workers in low-skilled sectors would help alleviate shortages of workers in sectors such as construction, agriculture and services, particularly in the digital economy. The current 2022 amendments that allow extension of short-term work contracts for up to two years (1+2 option) if certain conditions are met can already help to meet existing demands and should be assessed in view of whether they help address crucial shortages. To ensure that more legal pathways for foreign workers in low-skilled sectors do not lead to increased anti-immigrant sentiment, policies should be accompanied with effective communication campaigns by the government to emphasise the essential role of migrant labour in the Estonian economy.

Protect migrant workers from labour exploitation

Labour exploitation in Estonia occurs particularly in sectors which have typically employed migrants, and therefore by mitigating the risks of exploitation, Estonia would be a more attractive destination for migrant workers. The sectors in which labour exploitation most commonly occurs, are also those which face labour shortages. Therefore making these sectors safer for migrant workers would help address these. One action the Government could take is to end the role of immigration authorities in carrying out labour inspections, as this means that victims of labour abuse in Estonia may be less likely to submit complaints through fear of consequences for their right to stay and work legally. Second, exploitation often occurs in Estonia partly as a result of recruitment agencies' negligence towards the rights of migrants. While the government recognises this problem and has bolstered its monitoring systems of recruitment agencies to combat the increased risk of exploitation and trafficking caused by recruitment agencies, further monitoring would help the situation. Finally, offering pathways to regular status would also limit the risk factors causing exploitation and would allow migrant workers to take up declared work.