



Legal Migration Fitness Check

Evidence base for practical
implementation

Member State summary

Estonia

Annex 2 EE

Written by ICF Consulting Services
Limited

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LEGAL NOTICE

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More information on the European Union is available on the Internet (<http://www.europa.eu>).

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Introduction

This document provides an overview of the legal and practical implementation of EU legal migration acquis in **Estonia**. The legal and practical implementation study is structured according to the eight steps – ‘phases’ of the migration process from the perspective of the migrant¹ for the following Directives and their respective national equivalent schemes, presented in the table below.

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Researchers Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
National parallel scheme					Top specialist Aliens Act ² , article 181 (4)	
Options implemented?			Pupil Trainee Volunteer			

Main differences between EU statuses and the respective national parallel schemes

In Estonia, a top specialist is a third-country national (TCN) who has acquired appropriate professional training in any field. Unlike the conditions specified in the BCD, it is neither indicated in Estonian legislation that the TCN must hold a university or college diploma from an educational programme that lasted at least three years nor that proof of qualification can alternatively be done by showing at least five years of professional working experience. The salary threshold is higher than for the EU Blue Card and amounts to twice the annual average gross monthly salary.

The top specialist legislation foresees more requirements for the employer (e.g. the company should be registered in Estonia for at least 12 months, and has at least EUR 65,000 of equity capital or sales revenue of EUR 200 000).

While the EU Blue Card applicant needs to pass a labour market test, a top specialist is exempted from it and residence permit can be granted without applying the requirement for the permission of the Estonian Unemployment Insurance Fund, if the applicant has appropriate professional training or experience relevant for the employment.

¹ . See ref document (EU summary) Under each phase, the following aspects are examined : :

Legal transposition of the EU legal migration acquis: including whether the MS has overall complied with the transposition of the relevant EU acquis in the respective phase and whether these non-compliance issues affect the practical application of the Directive; **Practical application of the EU legal migration acquis:** overview of the main application issues/problems arising in the MS per each of the migration phases; **Differences between national statuses and the EU legal migration acquis:** substantial differences at the level of legislation and practical implementation between the EU legal migration Directives and their national equivalents (where these exist).

² Aliens Act, Article 181 (4), <https://www.riigiteataja.ee/en/eli/513032017005/consolide>

Another difference with the BCD lies in the length of the residence permit – a top specialist will be issued with a temporary residence permit for employment for a maximum period of five years (as of 1 Oct 2017), renewable for a ten-year (as of 1 Oct 2017) period.

Lastly, a top specialist does not have the right for temporary unemployment unlike a Blue Card holder.

All applicants who mark on their application that they are applying a residence permit for employment as top specialist or a Blue Card holder are under the annual immigration quota.

1 Pre-application phase

1.1 Legal transposition of the EU legal migration acquis

All of the legal migration directives except S&RD have been transposed (expected transposition deadline is May 23rd 2018) into Estonian legislation.

Estonia has complied with the legal transposition of the EU legal migration acquis. ICF research does not reflect outstanding non-compliance issues. There is only one equivalent national status. It refers to the top specialist (equivalent to the EU Blue Card).

1.2 Practical application of the EU legal migration acquis

The research does not show major conformity issues in the application phase irrespective of the different legal migration Directives. Since Estonia has rather small number of foreign representations and consulates, more emphasis on the pre-application phase has been put on the online materials, both by the state authorities responsible for processing the application procedures and by thematic online platforms (e.g. for students, for entrepreneurs etc). While foreign missions often provide information also in the local language, the information on the website of the Police and Border Guard Board is available in Estonian, Russian and English. The main challenge for national authorities is to keep the information in English up to date to changes in national legislation, as all thematic websites and foreign missions have links to the Board's website. The second challenge is related to the presentation and quality of translation of the information: very often translation is literally translated from national legislation making the information sometimes difficult to grasp for lay-persons.

Websites of foreign missions are usually the first point of reference for many third country nationals for consulting the requirements for coming to Estonia, however it is not in most cases explicitly explained on the website how the process is divided between the missions and the Police and Border Guard Board (the missions provide general information and then refer the applicant to the Police and Border Guard Board).

Information is provided on all major aspects of the application procedure - applicable deadlines, the cost of the application, conditions for admission (e.g. pre-entry integration conditions, work contract, etc.) and entry requirements (e.g. whether visa is required). Less information is provided on rights upon admission.

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Research ers Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
Languages	National language(s) English Russian Other					
The informati	2	2	2	2	2	2

on is
easy to
find*

* 1: Strongly agree; 2: Agree; 3: Neither agree/nor disagree; 4. Disagree; 5. Strongly disagree

Information can be found on the following aspects of the application procedure:

Application procedure	Conditions for admission	Entry requirements (e.g. visa etc.)	Cost of application	Applicable deadlines	Rights upon admission	Any differences between the Directives
Yes	Yes	Yes	Yes	Yes	No	

Information upon request

Most of the information is available online and thus accessible 24/7. As presented in the tables above, information includes overview of the documentation needed to start the application process.

Consultation is available both online (via e-mail) and in person. Face-to-face consultation is available at the foreign representations and in Estonia (Police and Border Guard Board).

It is also possible to call consular sections at the foreign representation and the Police and Border Guard (migration advice hotline). Migration advice at the Police and Border Guard Board offers consultation via Skype as well.

1.3 Differences between national statuses and the EU legal migration acquis

There is only one equivalent national status. It refers to the top specialist (equivalent to the EU Blue Card). The pre-application phase does not differ in practice from other statuses issued by Estonia, whether under the Directives or not.

2 Preparation phase

2.1 Legal transposition of the EU legal migration acquis

No major conformity issues have been observed in the application phase irrespective of the different legal migration Directives. Most of the requirements foreseen in the legal migration Directives are transposed to national legislation. There are some options that Estonia has not transposed. For example, there is no integration requirement for family members, like posed as an option in FRD Article 7(2) or in BCD Article 15 for Member States to implement.

SD Article 9 and 11 stipulate as one condition for pupils and volunteers, that they should not be below the minimum age nor above the maximum age set by the Member State. Estonia has not explicitly set any minimum or maximum age in the migration law. However, the education legislation stipulates that the school obligation starts at the age of 7 in Estonia and thus there is no maximum age. There is no age limit set for voluntary service either. The school or voluntary service organisation confirm by signing the invitation, that the applicant is meeting all their requirements for attending the school or volunteer in Estonia according to the legislations regulating this in Estonia (incl. migration law).

2.2 Practical application of the EU legal migration acquis

An applicant for a residence permit in Estonia will need to fill in one application form – a single standardised application form exists for all temporary residence permit applications regardless of the Directive and/or for equivalent national statuses.

A third country national may lodge an application for a first time temporary residence permit at a foreign mission of Estonia, which forwards the application to the Police and Border Guard Board (PBGB) for processing and decision making. In some cases, the application may be submitted directly at the Police and Border Guard Board (PBGB) - e.g. the applicant is legally in Estonia; s/he is illegally in the country, but for a good reason s/he cannot leave the country to apply at the Estonian foreign mission; and holders of EU Blue card, issued by another MS and their family members.

First time applications for temporary residence permit are submitted in person, as the identity of the applicant should be verified and fingerprints are taken from the applicant. Application forms are available online at the webpage of the Police and Border Guard Board (www.politsei.ee) in three different languages (Estonian, Russian and English), and the applicant can fill in the application forms in these languages. These forms may be filled in online, printed out, signed, and submitted to the foreign mission or the PBGB in person. All application forms are available at the service offices of the PBGB and at the consulates.

Ease of the application procedure:

Step	FRD	LTR	SD	RD	BCD	SPD
The information that applicants need to complete is not extensive	1	1	1	1	1	1
The application form is user-friendly	1	1	1	1	1	1

Key information/ documents required:

Type of information	FRD	LTR	SD	RD	BCD
Family ties	Yes, T, C, R				
Continuous legal residence		Yes, T, C, R			
Sufficient resources	Yes, T, C, R	Yes, R	Yes, R (students, trainees)	Yes, R	Yes, R
Accommodation/Address in territory	Yes, T, C, R	Yes, R	Yes, R	Yes, R	Yes, R
Sickness insurance	Yes, T, C, R	Yes, R	Yes, T, C, R	Yes, R	Yes, R
Work contract (for RD host agreement)				Yes, R	Yes, T, C, R
Minimum salary/income threshold (per month)	EUR 260	EUR 130	EUR 260	EUR 260	Between EUR 1801 and EUR

					1489
Professional qualifications				R	R
(Pre-) Integration measures	Yes, ,	Yes,	Yes	Yes	Yes
Pre-departure conditions			Yes, R (students) No (volunteers, trainees)		
Proof no threat to public	Yes, T, C, R	Yes	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R
Medical examination certificate	No		No	No	No
Valid travel document	Yes		Yes, T, C, R	Yes, T, C, R	Yes, T, C, R
Entry visa					No
Other	Yes, T, C	Yes, T, C, R	Yes, T, C, R	Yes, R	Yes, T, C, R

Note: T = Translation; C = Certified, R = Requirement, i.e. without this proof the application cannot be lodged.

2.3 Differences between national statuses and the EU legal migration acquis

There are some differences in conditions compared to the EU BCD – e.g. the salary threshold for the top specialist is somewhat higher (twice of the annual average) as opposed to the BC (salary threshold is 1.5 and 1.24 for certain positions).

While both statuses are required to have a valid work contract, for the status as a top specialist it is not required to provide a document attesting higher professional qualifications in the occupation or sector specified in the work contract (neither for regulated nor unregulated professions). Top specialist is not subject to the labour market test, while the BC applicants are subject to the labour market test. BC holders are allowed temporary periods of unemployment (in total 3 months), while the top specialists are not. Therefore, the period of validity is determined for three months longer than the period of employment guaranteed by an employer taking into account that the period of validity of an EU Blue Card cannot exceed two years and three months. For other labour migrants, including RD, temporary residence permits are issued for 2 years and as of October 2017 following an amendment to the legislation, the period is extended to up to 5 years.

There are no differences in terms of family reunification. Immediate reunification is provided for both statuses.

3 Application phase

3.1 Legal transposition of the EU legal migration acquis

No major conformity issues have been observed in the application phase irrespective of the different legal migration Directives. For the purpose to make the application procedure more flexible to the applicant, alternative options which are in the

Directives foreseen are transposed in the national law, e.g. the possibility to submit the application abroad or at the territory of Estonia (FRD Art 5 (3); RD Art. 14; BCD Art. 10.2). However, the national law does not make differences between Directives per se and the application can be lodged for all permits either from abroad or in Estonia. When the FRD (Art. 5(2)) and SPD (Article 4) give the option whether the third-country national or the sponsor or employer may submit the application, then the national law foresees that the application is submitted only by the third-country national personally.

3.2 Practical application of the EU legal migration acquis

As a general rule, first time applications for temporary residence permit should be submitted in person at the Estonian foreign mission, which forwards the application to the Police and Border Guard Board for processing. This regulation applies to all applicants regardless of the statuses based on the Directives or equivalent national statuses.

There are exceptions made for some migrant groups from this general rule. Like third-country nationals who are already legally in Estonia, may submit the application directly to the Police and Border Guard Board. Also, the Article 19 (2) of the BCD has been transposed to the national law, allowing EU Blue card holders and their family members to submit a residence permit application within 1 month from entering Estonia.

Residence permit applications are processed and the decision (a single administrative act) is made only by the Police and Border Guard Board within 2 months from the submission of the application or when the missing documents/information is submitted.

After the decision regarding the application is made, the Police and Border Guard Board notifies the applicant immediately of the decision following the contact details indicated in the request or application or at the address of the place of residence registered in Estonia. Thus, positive decisions are sent in writing via email or by post. Negative decisions are notified with a registered post or at the Board. In case of a failure to serve an administrative act via post or in case of not showing up at the location of an administrative authority, the decision is published on the web page of the Police and Border Guard Board.

The decision in national language, however a practice established by civil servants is to include a short summary of the decision in English or Russian, stating the resolution and the appeal deadline. A written objection to the decision can be submitted to the Police and Border Guard Board within 10 days of receiving the decision or an appeal to the Tallinn Administrative Court within the same period (10 days). The applicant can hire a legal representative for the appeal procedure.

The concept of administrative silence does not exist in Estonian legislation.

In case of a positive decision, a residence card is printed within 30 days and sent to the Estonian foreign mission (on the residence permit application form, the applicant marks in which Estonia's foreign mission s/he wants to receive the residence permit card) or to the office of the Police and Border Guard Board (in case the application was made in Estonia), and collected by the applicant.

Directive	General	FRD	LTR	SD	RD	BCD	SPD
Application from third country (Q3a)	Yes						
Permit received	Yes		No				

in third country						
Number of authorities involved in the application	1					
Number of authorities involved in the issuance of the residence permit	1					
Application modalities	In person					
Existence of a standard application form for all statuses	Yes					
Language of the application form	National language(s) English Russian					
Fees charged (Q3d.(i))	EUR 31 in case the application is submitted at the PBGB	EUR 64	EUR 64 in case the application is submitted at the PBGB	EUR 96 in case the application is submitted at the PBGB	EUR 96 in case the application is submitted at the PBGB	EUR 96 in case the application is submitted at the PBGB
	EUR 50 in case the application is submitted at a foreign mission of Estonia.		EUR 80 in case the application is submitted at a foreign mission of Estonia	EUR 120 in case the application is submitted at a foreign mission of Estonia	EUR 120 in case the application is submitted at a foreign mission of Estonia	EUR 120 in case the application is submitted at a foreign mission of Estonia
	Children under the age of 1 year: EUR 24 in case					

		the application is submitted at the PBGB; EUR 25 in case it is submitted at a foreign mission of Estonia					
Other fees charged?	No						
Fees charged for permit issuance	No						
Fees charged for renewal / replacement of the permit	64€	31	NI	64	96	96	96
	24 €: for a third county national under 15 years of age						

The processing times are as follows:

Directive	FRD	LTR	SD	RD	BCD	SPD
Processing time /deadlines (according to law)	61 days	61 days	61 days	61 days	61 days	61 days
Processing time (in practice)	54 days	54 days	54 days	54 days	54 days	54 days

3.3 Differences between national statuses and the EU legal migration acquis

In general, the same application procedure applies to all applicants whether they apply for a Directive status or the national equivalent status. The difference of the national status of top specialist and the EU Blue card is that for the top specialist applicant may start working immediately after entering Estonia based on a visa or visa free regulations, in case his employer has registered his/her short-term employment. This allows the third-country national to apply the residence permit for employment already in the country.

4 Entry and travel phase

4.1 Legal transposition of the EU legal migration acquis

The research does not reflect major compliance issues in this migration phase. The BCD Article 5 and RD Article 14, FRD Article 13 (1) foresee issuing a visa in case a residence permit is granted to the applicant. The national law does not stipulate a special visa regulation in that case, but the third-country national can get the residence card which allows entry to the country.

4.2 Practical application of the EU legal migration acquis

After the positive decision regarding a temporary residence permit is made, a residence card is printed and sent to the Estonia foreign mission or Police and Border Guard Board's office in Estonia indicated by the applicant on his/her application form. The card is printed within 30 days (in average 14-20 days) and sent with the diplomatic post to the respective Estonian embassy or consulate. The applicant can pick up its residence card from there and enter Estonia with that. In practice the applicant may receive the card after 30 days, as this depends of the times of the diplomatic post.

As detailed in the previous section, a third-country national can pick his/her residence permit before entering Estonia, therefore, there is no special visa regulation for residence permit holders. In case a third-country national does not yet hold a permit but for some reason wishes to enter Estonia before that, he/she can apply for a visa. Also, at the national border, border guard officers can see from the database whether a residence permit has been issued to a third-country national, i.e. the person has a valid basis to enter the country.

There are no differences regarding movement in the territory of Estonia or in the Schengen area for different statuses. All residence permit holder can stay 90 days in another Schengen state within 180- day period.

Estonia allows third country nationals who hold a valid permit and valid travel document to enter and re-enter their national territory only on the basis of the permit. Additionally, a third-country national is allowed to travel to other Schengen Member States only on the basis of the permit and valid travel document.

Estonia does not impose specific entry requirements to third-country nationals of a visa free country. However, for some countries the visa free travel right applies only for those persons who hold a biometric passport

In practice, third-country nationals do not encounter any obstacles to leave the third country, transit and/or enter Estonia. In general Estonia requires third-country nationals to have a residence permit before entering the country (this permit replaces a visa). However, sometimes it might take more than 30 days for the residence card to arrive at the Estonian foreign mission, and therefore this might be an obstacle to leave the third-country. Also, there are limited number of Estonian embassies around the world, and if the third-country national has no legal basis to enter the country where s/he should pick up his/her residence card, it again makes it difficult to leave the country.

Upon arrival, third-country nationals are required to register with the local authority.

4.3 Differences between national statuses and the EU legal migration acquis

A top specialist may enter Estonia with a visa or under the visa free regulation in case the employer has registered his/her short term employment. After arriving to Estonia he/she needs to start the residence permit for employment procedure and therefore they receive the residence permit already in Estonia. Otherwise the movement right in the territory of Estonia or in the Schengen area are the same as for other residence permit holders.

5 Post-application phase

5.1 Legal transposition of the EU legal migration acquis

There are no major compliance issues in this migration phase. SDP Article 4 requires Member States to determine whether applications for a single permit are to be made by the third-country national or by the third-country national's employer. In Estonia the application should be submitted by the third country national either to the Police and Border Guard Board or at the Estonian foreign mission.

5.2 Practical application of the EU legal migration acquis

Directive	FRD	LTR	SD	RD	BCD	SPD
Minimum validity of the first permit	No minimum period	No minimum period	No minimum period	No minimum period	No minimum period	No minimum period
Maximum validity of first permit	60 months	60 months	Until the end of the study	60 months (as of 1 Oct 2017)	27 months	60 months (as of 1 Oct 2017)
Minimum validity of permit renewal	No minimum period	No minimum period	No minimum period	No minimum period	No minimum period	No minimum period
Maximum validity of permit renewal (Q6b(ii))	If the marriage has lasted less than three years, the residence permit can be extended by maximum 5 years (as of 1 Oct 2017). If the marriage has lasted at least three years, then the resident permit can be extended by maximum 5 years (as of 1	No maximum period	Depending on the study	60 months	51 months	60 months

Oct 2017).

If third country national has been granted a temporary residence permit for settling with a spouse and has lived in Estonia at least five years, the permit can be extended for up to five years at a time.

Other family members renewal is linked to the length of the residence permit of the family member they are uniting with.

Estonia has a set timeframe (30 days) to deliver the permit following the notification of the decision. In practice, it takes 14-20 days on average.

5.3 Differences between national statuses and the EU legal migration acquis

The delivery process is the same for all statuses. The length of the permits granted varies between the Directive statuses and the national status. In general stay over three consecutive months in Estonia requires the application for temporary resident permit. There is no minimum period set for the length of the first resident permit, the maximum period is 5 years. For the BC the maximum period is 2 years 3 months, while for the top specialist the maximum period is 5 years (as of 1 Oct 2017). For researchers the maximum period is also 5 years (as of 1 Oct 2017). For students the length of the permit depends on the length of the study period – the permit is issued for the estimated duration of the study period. Permits issued under LTR are valid for 5 years, subject to automatic renewal (i.e. the long term status itself is not limited to 5 years). Permits issued under FRD can be valid up to 5 years.

6 Residency phase

6.1 Legal transposition of the EU legal migration acquis

The research does not reflect major conformity issues in the application phase irrespective of the different legal migration Directives. The format used for the residence permits is based on the Regulation (EC) No 1030/2002. Residence permits issued to third-country nationals have a constitutive nature. The permit creates legal assumption that the residence is legal. The permit is also required as a legal document for major administrative procedures. Residence permits grant the freedom of movement within Estonia (there are no restrictions regarding movement within the country).

6.2 Practical application of the EU legal migration acquis

a. Use of the permit:

The residence permit is issued using the format as set out in Regulation (EC) No 1030/2002 for residence permits. The permit has a constitutive value. It gives third-country nationals to right to move freely on the Estonia's territory.

Estonia allows third-country nationals holding residence permits from other Member States applying the Schengen acquis (together with a valid travel document) to enter and move freely within its territory.

The permit is required as a legal document for the following other administrative procedures:

Access to education	Access to healthcare	Registration with PES	Fixed telephone subscription	Utility subscription	Open a bank account	Social security registration
X	X	X	x	x	x	x

b. Renewals of the permit:

With the exception of holders of a LTR permit, national legislation imposes an indirect requirement to renew a valid residence permit at least two months before its expiry. The conditions for renewal are the same as for the admission procedure – however, there is no need to submit information that is already registered in national databases (for example, the place of residence in Estonia).

The renewal process follows a single procedure, involving one authority – namely the Police and Border Guard Board. The same authority is involved as in the first application procedure.

c. Change of status and naturalisation

Status changes are possible for all statuses. The change of status is possible between all Directive (and national) statuses. The procedure for requesting a status change is the same as the first application procedure, however, it is not required to resubmit the documentation that has already been submitted (e.g. marriage certificate).

In Estonia, permanent residency is required before naturalisation (at least eight years on the grounds of a residence permit or by right of residence, of which at least the last five years on a permanent basis). The conditions for obtaining the Estonian nationality are the following:

- Permanent residency requirement (at least eight years on the ground of a residence permit or by right of residence, of which at least the last five years on a permanent basis);

- Estonian language proficiency examination (the exam is not required, if the applicant has acquired the basic, secondary or higher education in the Estonian language);
- Examination of knowledge of the Constitution of the Republic of Estonia and the Citizenship Act;
- The applicant has permanent legal income;
- His or her place of residence has been registered in the population register of Estonia;
- The third-country national is loyal to the Estonian state.

d. Employment rights on the basis of the permit

In general, a work-related permit is linked to a certain employer. When changing employer, the third-country national needs to request a change to the permit. A third-country national has 3-6 months to find another legal basis for stay after their residence permit expires and it can include either changing immigration status (e.g. from employment to study or family reasons) or find a new employer.

e. Equal treatment

No equal treatment differences were spotted between statuses, nor are there any differences between third country nationals and nationals.

With regard to identifying labour exploitation, the Member State does have a mechanism in place to monitor the exploitation of third-country nationals. These are mainly control visits carried out by the Tax and Customs Board and Border Guard Board in cooperation with the Labour Inspectorate. Other specific measures in place to prevent labour exploitation of third-country nationals include sanctions against employers (fines and/or detention).

f. Integration:

Specific integration procedures and conditions do apply to third-country nationals once established on the territory of the Member State such as a welcoming programme including a short language training – the participation in such training is voluntary. Thus, there are no consequences if the third-country national does not participate in these or fails the integration measure.

6.3 Differences between national statuses and the EU legal migration acquis

There are no differences between the statuses. The renewal procedure is the same, the fees applied are also the same. Estonia applied annual immigration quota on most categories of permits issued for remunerated reasons. BCD are subject to immigration quota.

7 Intra-EU mobility phase

7.1 Legal transposition of the EU legal migration acquis

Intra-EU mobility of third-country nationals is very vaguely stipulated in the national law. In general, mobile third-country nationals have to apply a residence permit in Estonia if they want to stay in the country more than 90 days. They need to go through the residence permit application procedure (submit the application to the PBGB, additional documentation etc.), which is more or less the same as for first time applicants. The decision regarding their application is made within 2 months from the submission of the application or the deficiencies are eliminated. Mobile EU citizens have a simpler procedure, they need to register their place of residence in the local municipality and apply within 1 month an ID card from the Police and Border Guard Board, which proves their residence right in Estonia.

There could be some compliance issues in this migration phase. There are some Articles that Estonia has not transposed or has partially transposed, which regulate the intra-EU mobility. For example, SD Article 8 stipulates the mobility of students and foresees that the student shall be admitted by the second Member State within a period that does not hamper the pursuit of the relevant studies, whilst leaving the competent authorities sufficient time to process the application. The national law does not have a different term for decisions in application from mobile migrants than for first time applicants. Thus, within 2 months the decision must be made regarding the application. The same requirements as for first time applicants apply. Furthermore, there is no regulation about sharing information/asking information with the first MS, as stipulated in SD Article 8 (3).

There is no notification obligation of the first MS in the BC process as well. The BCD Article 18 (4) states that in accordance with the procedures set out in Article 11, the second MS shall process the application and inform in writing the applicant and the first Member State of its decision to either issue a EU BC or refuse to issue a EU BC. In practice only the applicant is notified about the decision, not the first Member State.

There are no explicit articles in the national legislation which regulate specifically the mobility of researchers in accordance with Article 13 of the RD. The general mobility rules are applicable here. A third-country national holding a valid residence permit issued by another Schengen MS can stay up to 90 days within 180-day period in Estonia. Thus, the mobility rules apply to persons holding permits of Schengen Member States.

7.2 Practical application of the EU legal migration acquis

For short-term mobility, the Member State:

- Does not require the third-country national to notify
- Does not require the third-country national to ask for authorisation.

7.3 Differences between national statuses and the EU legal migration acquis

There are no differences in this phase between the Directive statuses and national statuses.

8 End of legal stay / leaving the EU phase

8.1 Legal transposition of the EU legal migration acquis

The research does not reflect major compliance issues in this migration phase. However, there are some articles that are not fully or explicitly transposed to the national legislation. For example, RD Article 5 (3) stipulates that Member States may require, in accordance with national legislation, a written undertaking of the research organisation that in cases where a researcher remains illegally in the territory of the Member State concerned, the said organisation is responsible for reimbursing the costs related to his/her stay and return incurred by public funds. The financial responsibility of the research organisation shall end at the latest six months after the termination of the hosting agreement. The first part of the paragraph 3 of the Art 5 is transposed and in practise by signing the invitation form, the research organization takes on the obligations of the sponsor, which include carrying the costs related to illegal stay and return. Estonia has not regulated the time when the financial responsibility of the research institution ends. However, there is a new draft law prepared at the moment, which will transpose the S&RD and a deadline for the end of the financial responsibility will be added to the national law according to the Directive.

Also the Article 9 (2) of the LTR foresees that by way of derogation from paragraph 1(c), Member States *may* provide that absences exceeding 12 consecutive months or

for *specific or exceptional reasons* shall not entail withdrawal or loss of status. Estonian legislation does not explicitly foresee any specific or exceptional reasons which justify the absence of more than 12 consecutive months. The Aliens Act stipulates that if the person has registered his absence from Estonia or the Police and Border Guard Board retrospectively deems the absence to be justified, then the person may be absent for more than 12 consecutive months. However, as of 18.01.2017 the regulation of registration of absence from Estonia was repealed. Thus, now if the Board assesses that the absence was justified, the reasons are taken into account, otherwise not. There are no differences in the role of the board before and after the repeal of the law. However, there are no paragraphs in the law foreseeing the registration of absence.

8.2 Practical application of the EU legal migration acquis

There is no specific de-registration process foreseen in case the person is permanently leaving Estonia. However, this can be considered as an important fact regarding his/her residence permit conditions. Thus, the Police and Border Guard Board should be notified about it. After which the Board can cancel the residence permit, if deemed necessary.

Also, third-country nationals choosing to leave Estonia need to notify authorities of his/her address change and thus leave them with an address in the next country of residence (the change is updated in the Population Registry).

The Member State allows third-country nationals to export certain social security benefits, in a few cases. Estonia has concluded bilateral agreements with five so-called third countries in terms of transferability of social security benefits (this is also binding for Estonian nationals). These countries are Russia, Ukraine, Moldova, Canada, and Australia (enforce as of 2018). The bilateral agreements referred to, mainly regulate paying of pensions, except for the agreement with Ukraine that also regulates the paying of unemployment benefit, parental benefit, family benefit, and funeral expenses. Information on the portability of social security benefits is not easy to find and not clear.

There is no number of days a person can be absent from the territory before losing the permit. The validity of the residence permit is bound with the purpose of the residence permit and with the length of the permit; not with days the applicant spends outside the territory of Estonia. The absence of third-country nationals is not monitored by Estonian authorities (only on an ad-hoc basis).

Estonia does not have specific measures or a scheme in place to allow circular migration.

The consequences of deliberate overstay of the duration of the residence permit are the cancellation of the permit and a return decision is issued. There are no procedures in place for third-country nationals who lost their right to stay in Estonia and who cannot be returned.

8.3 Differences between national statuses and the EU legal migration acquis

There are no differences in this phase between the Directive statuses and national statuses.

9 Main findings and conclusions – state of practical implementation of EU legal migration legislation in the Member State

In the past two decades Estonia has been mostly characterised by the declining population due to ageing and also relatively high levels of emigration. It is only in the

past few years that the net migration has turned positive. Ensuing from the above Estonia's self-perception as a country of immigration and acknowledgement of the need to present the information related to immigration matters and procedures is comparatively new. This could be regarded as one of the reasons why considerable amount of the information that is needed for the application procedure (description of the process, overview of the documentation needed, outline of the support services available upon arrival, language learning etc) tends to be rather generic, sometimes hard to find or presented from the point of view of the decision maker (the authority) rather than from the perspective of the applicant.

Estonia has transposed all of the EU legal migration acquis and in general the research does not show major outstanding non-compliance issues. There are only minor instances when there are differences between the Directive statuses and national statuses (e.g. in the case of top specialist and the BC). There are also few cases when the Directives has not been fully transposed (e.g. the intra-EU mobility is not very precisely defined in the national legislation).

Annex 1 References

Interviews undertaken

Member State	Organisation/authority interviewed	Contact person/contact details	Date of interview
Estonia	Police and Border Guard Board	Migration advisor	14.06.2017 and 22.06.2017

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