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Ad-Hoc Query on 2024.45 Labour Market Test

Requested by EMN NCP Luxembourg on 6 August 2024

Compilation produced on 6 October 2024

Responses from EMN NCP Belgium, EMN NCP Bulgaria, EMN NCP Croatia, EMN NCP  
Cyprus, EMN NCP Czech Republic, EMN NCP Estonia, EMN NCP Finland, EMN NCP France,  
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## 1. BACKGROUND INFORMATION

The purpose of this ad-hoc query is to gather comprehensive and up-to-date information on the implementation of labour market tests (LMTs) across EU Member States. Labour market tests are used by EU Member States to regulate the employment of third-country nationals by ensuring that job vacancies cannot be filled by national workers, EU citizens or third-country nationals legally residing on the territory with an unlimited right to work before offering positions to third-country nationals.

The labour market test (LMT) is implemented and applied in most of the EU Member States. Where the LMT is applied, some categories of workers can be exempt from the application. Member States apply different methodologies in undertaking LMTs. The duration of the verification process varies among the Member States.

The insights gathered from this query will contribute to a better understanding of the various approaches to labour market tests within the EU and will provide new and up-to-date information since the last ad-hoc query on the topic conducted in 2021. This, in turn, will support the European Commission in developing policies that balance the protection of domestic labour markets with the need to attract necessary skills from outside the EU. Besides, insights gathered will also provide useful information in the context of the initiatives and actions foreseen under the Skills and Talent package (April 2022) as well as Skills and Talent Mobility Package (November 2023), such as the implementation of the revised EU Blue Card, revised Single Permit Directive and the future EU Talent Pool.

This AHQ will count for three AHQs due to the length of the questions and the urgency for collecting the information.

**We would like to ask the following questions:**

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- 1. Does your Member State have a labour market test (LMT) in place? YES/NO/Other (use of parallel mechanisms with similar function). If the answer is YES, please proceed with questions 2 to 7. If NO or Other, please detail any mechanisms in place that serve a similar purpose to the LMT.**
- 2. Please detail the (1) conditions and procedural steps involved in the application of the LMT, (2) the responsibilities of both employers and public employment services (PES) and other relevant actors (e.g. jobseekers, social and economic partners, regional authorities, etc.) at each stage of the process and (3) the duration, processing time and any possible associated costs of the LMT.**
- 3. Does your Member State check the availability of workers from other EU Member States during the LMT process? YES/NO. If YES, please explain the methodology used to check the availability of workers from other EU Member States (e.g., requirement for employers to post job vacancies on the EURES portal for a specified period, publication on other Member States' public/private job search portals, proof of non-availability of other candidates, etc.).**
- 4. Is the LMT applied generally or only to specific categories (e.g., for specific categories of workers, nationalities, sectors and occupations, or type of vacancies)? Are there LMT exemptions for specific categories of workers, sectors or occupations? 4.a) If it applies to specific categories, please describe the rationale behind. 4.b) If there are exemptions for specific categories, please describe the rationale behind and describe the process for reviewing such exemptions and how often these are revised. 4.c) If there is a link with the labour shortages list, please describe briefly how it is established, at what level (national, regional, municipal), whether it is regularly updated and how it impacts on the LMT).**
- 5. What criteria can lead to a negative decision after conducting the LMT, thereby preventing an employer from hiring a third-country national worker? Consider the following scenarios: • The job description is overly specific, limiting the pool of potential domestic or EU candidates. YES/NO • The job vacancy is filled by a national, EU citizen, or legally staying third-country national before the LMT period concludes. YES/NO • A worker referred by the PES is willing to accept the job. YES/NO • The employer unjustifiably rejects a jobseeker who meets all the job requirements. YES/NO • The PES**

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**issues a negative decision based on data indicating a sufficient number of qualified jobseekers available to fill the vacancy. YES/NO • Other criteria (please specify).**

**6. If available, could you please provide the latest data available on the percentage of positive and negative decisions after the LMT has been conducted?**

**7. Do you see any bottlenecks or specific challenges in the LMT process? Since the last query in 2021, have there been any measures taken in your Member State to address these challenges (e.g., more selective use of LMT, full digitalisation and automation of the process, shortening of processing times, or other simplification methods)?**

We would very much appreciate your responses by **6 September 2024**.

## 2. RESPONSES

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		<b>Wider Dissemination</b> <small>2</small>	
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<sup>2</sup> A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed

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 <p><b>EMN NCP Belgium</b></p>	<p><b>Yes</b></p>	<p>1. YES. Since the sixth constitutional reform of the Belgian state, economic migration is a re-gional competence. The Flemish Region, Brussels-Capital Region, Walloon Region, and the German-speaking Community can each determine their own economic migration policy based on their labour market needs.</p> <p>2. <b><u>Brussels Region:</u></b> <b>Until 30 September 24:</b> The Brussels administration that processes single permit applications systematically requests the opinion of ACTIRIS, the Brussels Public Employment Service, in the context of applications for which the situation on the labour market is relevant. ACTIRIS conducts the labor market test on the basis of the information included in the employment contract and the information provided by the employer. ACTIRIS checks the job-seeker database to see how many available candidates there are for the position to be filled. Negative advice: when there are more than 24 candidates Positive advice: when a maximum of 24 candidates are available or if it concerns a shortage occupation. In the case of a positive advice, the Brussels administration can deliver a permit. The labour market test procedure is free of charge and, usually, Actiris transmits the advice within one week (with the new regulations, they have 5 working days to deliver it). <b>Starting from 1 October 24:</b> When deciding on single permit applications, the Brussels administration may directly use the annually published regional <u>list of shortage occupations</u> (quantitative shortage occupations, statistical shortage identified) to grant admission to employment. In other words, if a profession is included in the shortage occupation list, there is no need to do a labour market check. To</p>
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and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<p>assess whether a job matches a job on the shortage occupation list, the administration can also use the employer's detailed description of the job to be filled. The regulations provide a derogation for this (in this case the employer may show how many candidatures he/she received and may explain why the candidates were not recruited).</p> <p>For jobs that do not appear on this list of shortage occupations, the employer must first publish a vacancy on the ACTIRIS website for at least 5 weeks, or use ACTIRIS' recruitment services. Only when, after five weeks, no suitable candidate can be found, an employer may apply for a single permit. In this context, the advice of ACTIRIS will be requested. The following procedure (with the negative and positive advice) is the same as the procedure described under 'until 30 September 2024'.</p> <p><b><u>Flemish region:</u></b></p> <p>The Flemish economic migration policy is based on a concentric model. First, the administration looks at the region's labour market, then to the other regions and then to the EEA labour market. Only if no one is found within these circles an employer can recruit from outside of the EU.</p> <p>The Flemish economic migration policy explicitly provides for a flexible recruitment of <u>highly skilled workers</u> as well as of <u>medium skilled workers</u> that are included in a shortage occupation list for labour migration (this list contains 29 professions and is updated every two years) (see Ministerieel Besluit 1 september 2023 houdende vaststelling van de lijst met middengeschoolde functies waarvoor een structureel tekort aan arbeidskrachten bestaat). For these two groups of workers a presumption of shortage exists. As a consequence, no labour market test applies. This means that the employer does not have to demonstrate individually that no suitable candidates can be found for the vacancy. Certain categories of workers such as posted workers, journalists, short term intra-corporate transferees, etc. are exempted from a work permit (and, as a consequence, from a labour market test) – for full list see article 16 Besluit van de Vlaamse Regering van 7 December 2018 (Article 16 Decision of the Flemish Government of the 7th of December 2018).</p> <p>Certain categories of workers must apply for a work permit but are exempted from the labour market test, such as: highly skilled workers, management positions, researchers, etc. – for full list see article 17</p>
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		<p>Besluit van de Vlaamse Regering van 7 December 2018 (Article 17 Decision of the Flemish Government of 7 December 2018).</p> <p>For the remaining applications of the 'rest'-category ('other': these are low skilled occupations, as well as medium skilled occupations that are not on the shortage occupation list for migration) no presumption of shortage applies and a labour market test is conducted for each individual application. On <b>1 May 2024</b>, the Flemish legislation introduced four admissibility conditions for an application under the 'other' category (before this used to be a catch-all category, which led to many LMT exemptions). The conditions were introduced to enhance the concentric model and to attach more importance to the prior search by employers on the Belgian and EEA labour market, before looking for employees outside of these markets.</p> <p>The application must meet all of the following conditions, on penalty of inadmissibility:</p> <p>1° the position is listed on the list for bottleneck professions (this is more ample than the shortage occupation list, which is used to list professions exempted from the LMT test) published annually by the Flemish PES (VDAB);</p> <p>2° the position requires a qualification of level 2, level 3 or level 4 (high school - Level of qualifications   What is the FQF?   The Flemish Qualifications Framework (vlaamsekwalficatiestructuur.be));</p> <p>3° the vacancy for the job is published on the VDAB and EURES platforms, for a continuous period of at least 9 weeks in the 4-month period immediately preceding the application for admission to work;</p> <p>4° when publishing the vacancy as stated in 3°, the employer requests active mediation by the VDAB to fill the vacancy.</p> <p>For this 'rest' category, labour migration is only possible if 4 conditions are fulfilled, including a labour market test. see article 18 § 1, second paragraph Besluit van de Vlaamse Regering van 7 december 2018 (Article 18(1) Decision of the Flemish Government of 7 December 2018).</p> <p>The labour market test is conducted by the Flemish PES (VDAB). The purpose of the LMT is to ascertain whether there is no candidate on the labour market of a Member State of the EEA who, whether through vocational training or individual vocational training that has yet to be undertaken or not, is suitable to occupy the job in question in an appropriate manner and within a reasonable period of</p>
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			<p>time. The results of the LMT are transmitted by VDAB to the Economic Migration Service of the Department of Work and Social Economy. The labour market test is free of charge and average processing time is 6 weeks.</p> <p><b><u>German-speaking community:</u></b> Conditions: the employer has to prove that he searched actively for staff on the Belgian and European Labour Market. In this context, the employer must send the copies of the job vacancies published on the website of the public employment service and EURES. The PES has to tell the administration how many vacancies there are in the same field and if they have candidates matching the description. This takes rarely more than a couple of days.</p> <p><b><u>Walloon region:</u></b> Previously, the labour market test was only carried out when a job did not appear on the shortage professions list. If the job was not on the list, a labour market test was performed (unless the job falls under one of the categories of Q3). If a negative decision was given, the result could be contested by lodging an appeal with the Minister, who could overturn the decision. From <b>1 September 2024</b>, new rules will apply (see: 6 JUIN 2024. - Arrêté du Gouvernement wallon relatif à l'admission au travail de travailleurs étrangers – Decision of 6 June 2024 of the Walloon Government Regarding the admission to work for foreign workers). Under these new rule, there are several ways to conclude that the local market cannot meet job demand. I. The job appears on the shortage occupation list - article 2 §2, 1°. II. FOREM (Walloon Public Employment Service) certifies that a vacancy that has been advertised for at least 5 weeks, which has not been filled. The vacancy is also automatically published via EURES - article 2, §2, 2° a); article 2 §3</p>
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		<p>III. Unsuccessful search for a candidate via active 'management'-procedure by FOREM (analysis of pre-selected profiles by the PES) - article 2, §2, 2° b)</p> <p>IV. Following a pre-selection procedure carried out by FOREM in collaboration with the employer, FOREM finds that it is unable to present a suitable candidate for the position.- article 2, §2, 2° c)</p> <p>V. Assessment by the delegated official on the basis of evidence provided by the applicant - article 2, §4</p> <p>Evidence must be collected before the application is lodged, given that the response times applicable under the regulations is very limited (15 days). In other words, unless the profession appears on the shortage occupation list, the company must have passed through one of the above mentioned options. This takes a minimum of 5 weeks, which largely exceeds the 15 days deadline for the administration to decide on the application. The Minister of Employment retains the power to waive this provision, notably in the event of an appeal against refusal.</p> <p>3.</p> <p><b><u>Brussels Region:</u></b> NO, unless they are looking for a job on the Belgian market.</p> <p><b><u>Flemish region:</u></b> YES. The Flemish economic migration policy is based on a concentric model. First, employers need to look for recruits on the Flemish labour market, then on the labour market of the other regions and then to the EEA. Only if no one is found within these circles an employer can recruit outside of the EU. For the admissibility of applications in the 'rest'-category there are 4 admissibility conditions (cf answer to question 2 and see article 18 § 1 Besluit van de Vlaamse Regering van 7 december 2018 (Article 18(1) Decision of the Flemish Government of the 7 December 2018).</p> <p><b><u>German-speaking community:</u></b> YES. German-speaking community's PES publishes all job vacancies automatically on the EURES portal.</p> <p><b><u>Walloon region:</u></b></p>
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		<p>YES. Wallonia’s PES publishes all job vacancies automatically on the EURES portal.</p> <p>4.</p> <p>On the one hand, in Belgium, in principle, people coming for work purposes can only receive a work permit after a labour market test. Categories such as seasonal workers for example do need to pass by a labour market test before receiving a work permit.</p> <p>On the other hand, if <b><u>third-country nationals are staying in Belgium for non-work related reasons</u></b>, their identity card will mention whether or not they have access to the labour market and they do not need to ask for a separate work permit. This category includes:</p> <ul style="list-style-type: none"> <li>• Beneficiaries of international and temporary protection,</li> <li>• People with a special residence permit on the basis of holding a particular office (and their family members under certain conditions),</li> <li>• People who are undertaking an obligatory internship in Belgium for their studies in Belgium, the European Economic Area or the Swiss Confederation,</li> <li>• Persons with a permit for unlimited stay,</li> <li>• Persons with a long-term residence permit,</li> <li>• Under certain conditions for family members of EU-nationals or Belgians or third-country nationals who came in the context of family reunification,</li> <li>• ... .</li> </ul> <p>Also other categories are exempt from a work permit:</p> <ul style="list-style-type: none"> <li>• <b><u>Foreign workers with the nationality of an EEA member state or Switzerland</u></b></li> </ul> <p>The foreign worker has the nationality of a member state of the European Economic Area or Switzerland.</p> <p>Admission to work is also not required for the posted worker who has one of these nationalities.</p> <ul style="list-style-type: none"> <li>• <b><u>Certain categories of posted workers</u></b></li> </ul>
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		<p>In case a posted worker is posted in Belgium by his foreign employer to work there for a certain period of time. He remains in the service of his foreign employer, but temporarily performs services on the Belgian territory.</p> <p>In principle, foreign posted workers require authorisation, unless they fall under one of the exempt categories. More information can be found here: Posting   Federal Public Service Employment, Labour and Social Dialogue (belgium.be)</p> <p>For those in need of a <b><u>work permit, exemptions, per category, exist from the labour market test.</u></b></p> <p>The labour market test shows whether it is possible to find an employee suitable to do the job, possibly after training, within a reasonable period of time. For the labour market test, one not only looks at the regional (Flemish, Walloon, Brussels-Capital and German-speaking Community) and Belgian labour market, but also at the European labour market. Depending on the region, this happens in successive steps (first regional, then Belgian, then European) or all at the same time.</p> <p>Some foreign nationals are exempt from the labour market test condition in order to obtain a work/single permit. If a person falls within a category subject to an exemption, it is easier to obtain a single permit. The exemption are decided regionally and the regional administrations are competent for giving the work permit.</p> <p>The <b><u>following categories</u></b> of workers are, under certain conditions, exempt from a labour market test:</p> <ul style="list-style-type: none"> <li>• Highly skilled personnel</li> <li>• Medium-skilled bottleneck occupation (on the basis of regional lists – in Brussels this will enter into force on 1 October 2024 and will be a general list, not limited to middle-skilled professions)</li> <li>• Executives</li> <li>• European Blue Cards</li> <li>• Intra-Corporate Transferees</li> <li>• Long-term residents with a second residence in Belgium, in a bottleneck profession (Brussels-Capital Region and German-speaking Community only)</li> <li>• Certain trainees (for example those falling under the Student and Researchers Directive)</li> </ul>
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		<ul style="list-style-type: none"> <li>• Ministers of recognised religions</li> <li>• Professional sportsmen, referees and trainers</li> <li>• Spectacle artists</li> <li>• Journalists (Flemish region only)</li> <li>• Researchers and international lecturers</li> <li>• Researchers with a hosting agreement</li> <li>• Postdoctoral researchers benefiting from an allowance for scientific research for a maximum period of 3 years</li> <li>• Specialist technicians in certain cases</li> <li>• Volunteers in the framework of European voluntary service</li> <li>• Persons employed under international agreements</li> <li>• In the case of a sales contract, for following vocational training. In the Flemish region, this also applies to the provision of such training.</li> <li>• In the context of a training course at the Belgian head office of a multinational group for more than 3 months. In the Flemish region, this also applies to persons giving such training.</li> <li>• Managers of foreign airlines (Brussels-Capital Region only)</li> <li>• Managers of foreign tourist services (Brussels-Capital Region only)</li> <li>• Persons employed by a local employment agency for more than 3 months (Brussels-Capital Region only)</li> <li>• Persons registered in the Belgian Merchant Navy Seamen's Pool for more than 3 months (Brussels-Capital Region only)</li> <li>• For people maintaining foreign military cemeteries for more than 3 months (Brussels-Capital Region only)</li> <li>• Executives or foremen of a recognised coordination centre for more than 3 months (Brussels-Capital Region only)</li> </ul>
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- Executives or managers in a headquarters for more than 3 months (Brussels-Capital Region only)

**4.a) If it applies to specific categories, please describe the rationale behind.**

**Brussels Region:**

Any application for which no derogation applies may be subject to a labour market test. However, from 1/10/24 an employer will have to prove that a vacancy has been published on the ACTIRIS website for at least 5 weeks, or that the employer has first passed through ACTIRIS' recruitment services.

**German-speaking community:**

Because in the federal law, it is described as such and the Community still applies the federal text. The logic seems to be that those categories do not affect the "normal" labour market, but are related to special circumstances.

**4.b) If there are exemptions for specific categories, please describe the rationale behind and describe the process for reviewing such exemptions and how often these are revised.**

Exceptions to labour market tests are provided for by the regional regulations themselves. These are functions deemed to add direct value to the regional economy for which the necessary competences cannot be found, exceptions imposed by higher national regulations, or exceptions based on international agreements and treaties.

**4.c) If there is a link with the labour shortages list, please describe briefly how it is established, at what level (national, regional, municipal), whether it is regularly updated and how it impacts on the LMT).**

In case of a 'shortage occupations', access to the single permit may be simplified and the requirement of conducting an analysis of the labour market is lifted for certain categories of middle-skilled third-country nationals. For shortage occupations, a structural shortage on the labour market is presumed. As a consequence, the conditions checked during the labour market test are automatically presumed to be met. Please note that different lists exist (for example the bottleneck professions list of the PES are not the same as the shortage occupation lists that apply in the context of exempting third-country nationals from the LMT for the single permit).

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		<p>The list of professions that qualify as bottleneck are updated differently according to the region. Both the Walloon and Flemish region have a 'dynamic' list, meaning that it is updated annually (Walloon) or bi-annually (Flanders). Also the German-speaking Community list is 'dynamic' but access is limited to third-country nationals who have a long-term residence permit in another EU Member State. In the Brussels Capital-Region, a 'static' list was used, which was also only accessible for third-country nationals who have a long-term residence permit in another EU Member State. This list remained the same for nearly 20 years (adopted in 2006). Nonetheless, when the Brussels Region economic migration reform enters into force in October 2024, the Brussels region will also adopt a 'dynamic' list every year.</p> <p><b><u>Walloon region :</u></b></p> <p>On the basis of Ministerial decree of 3 November 2021 (l'arrêté ministériel du 3 novembre 2021), the authorities of the Walloon Region takes the bottleneck professions list of the Walloon PES (FOREM) and removes the following professions from the initial FOREM list:</p> <ol style="list-style-type: none"> <li>1. The functions for which there is a constant shortage (shortage attested over the last 3 years, or on 2 occasions over the last 5 years);</li> <li>2. No low-skilled or unskilled jobs, which the local market is expected to fill, including through short-term training;</li> <li>3. No highly qualified functions, regional regulations have provisions to meet this need;</li> <li>4. When there are corrective actions in place on the labour market (e.g. training for a function in short supply), the function concerned is in principle no longer subject to economic migration.</li> </ol> <p><b><u>Brussels Region:</u></b></p> <p>In Brussels, a static list was used, which was drawn up in 2006. More generally, Every year, View.brussels, draws up a more general list which includes bottleneck professions that are qualified as such for quantitative (not enough candidates for the professions), qualitative (there are candidates, but they lack the necessary competences) or other reasons that are related to the difficult work circumstances of that specific profession. This list was not used up until now. The new shortage occupations list, for migration purposes, will include the quantitative shortage occupations of the</p>
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view.brussels list. Therefore, starting from 1 October 24, when deciding on single permit applications, the Brussels administration may directly use the annually published regional list of shortage occupations (quantitative shortage occupations, statistical shortage identified) to grant admission to employment.

**Flemish region:**

The annual bottleneck profession study of VDAB (Flemish PES) is used to draw up the migration list for medium-skilled workers, with the following adjustments:

- only professions with quantitative shortages are retained (these are functions where there is a shortage of workers);
- only professions with VKS 3 or VKS 4 education (medium-skilled - Level of qualifications | What is the FQF? | The Flemish Qualifications Framework (vlaamsekwalficatiestructuur.be));
- only professions where there is no surplus in the EU based on the ELA list (European Labour Authority list);

Important remarks:

- Similar professions are combined under 1 profession title. This means that in principle there are more than 29 functions on the migration list that is currently valid;
- For the preparation of the migration list for medium-skilled workers, social partners are invited to give their input. Nonetheless, the final decision is taken by the minister.

5.

(All scenarios were considered frequent).

**Brussels Region:**

ACTIRIS' own advice is based solely on a quantitative criterion. If there are more than 24 candidates, a negative opinion is given, if a maximum of 24 candidates are available or if it concerns a bottleneck profession, a positive opinion is given, and the administration may grant admission to work.

In addition, the administration may refuse the application if it was not submitted correctly or corresponds to reality, or if the elements are insufficiently clear or imprecise. In order to evaluate this correctly, the employer must submit, together with the application, an accurate description of the vacant position,

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		<p>indicating at least a description of the employer's activities or, if there are several activities, of the industry in which the employee will work, an organizational chart of the company indicating the position the employee will hold and the hierarchical line to which he reports, and a description of the objectives and responsibilities assigned to the employee.</p> <p><b><u>Flemish region:</u></b> As indicated in the answer to Q2, the labour market test conducted by the VDAB aims to ascertain whether there is no candidate available on the labour market who, possibly after following vocational training, is suitable to fill the position within a reasonable period of time. The VDAB transmits the result of this investigation to the Department of Work and Social Economy. This is taken into account for the assessment and decision on the work permit application work in the 'rest'-category. In its analysis, the VDAB can state, for example, that there are sufficient candidates available on the labour market to fill the position, taking into account the necessary competences and the labour market context.</p> <p><b><u>German-speaking community:</u></b> Mostly the fact that there are enough candidates on the local labour market who could fill the job vacancy (sometimes needing an additional training, but capable of filling the job vacancy in a reasonable time period).</p> <p>6.</p> <p><b><u>Brussels Region:</u></b> In 2023, the Brussels' administration requested to ACTIRIS 1312 labour market tests, both for initial applications at first instance and for appeal cases. For these, 82% positive and 18% negative opinions were given. Of the 82% positive advices, 43% were based on the regional (static) list of bottleneck occupations. In 2023, 834 initial admissions to first instance employment were granted on the basis of labour market research, out of a total of 3889 first admissions to work (thus, 21.4% of the total).</p> <p><b><u>Flemish region:</u></b></p>
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		<p>In 2022, 98 LMT were preformed, while 148 LMTs were requested (Jaarverslag – Dienst Economische Migratie (vlaanderen.be)). With the new regulation in force (and the changes in the 'other'-category), this number may increase.</p> <p><b><u>German-speaking community:</u></b> N/A.</p> <p><b><u>Walloon region:</u></b> N/A.</p> <p>7.</p> <p><b><u>Brussels Region:</u></b> Given that the Brussels' region new legislation will only take effect in October 2024, an evaluation will happen at that time. However, the goal of the revision is, on the one hand, to speed up and simplify the procedure for bottleneck occupations and, on the other hand, to allow a more thorough and correct analysis for other functions.</p> <p><b><u>Flemish region:</u></b> The Flemish Region changed its approach for access for low skilled and medium skilled workers, in the light of the concentric approach (employer has to start his search on the BE and EEA labour market before passing to third countries). With the introduction of four admissibility conditions, employers have more obligations to show they cannot find anybody on the VL/BE/EEA market, before they can turn towards the Economic Migration service. This also includes actively asking for mediation to the Flemish PES (VDAB). These new rules require new operational rules between the Flemish PES and the administration.</p> <p><b><u>German-speaking community:</u></b> The German-speaking Community is evaluating the possibility of automating the process for employers who publish job vacancies so that they could receive after a certain time period a certificate stating that there are no suitable candidates at the local employment agency.</p> <p><b><u>Walloon region:</u></b></p>
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			N/A (new legislation not yet in force).
	<b>EMN NCP Bulgaria</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. No</li> <li>2. N/A</li> <li>3. N/A</li> <li>4. N/A</li> <li>5. N/A</li> <li>6. N/A</li> <li>7. N/A</li> </ol>

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	<p><b>EMN NCP Croatia</b></p>	<p><b>Yes</b></p>	<p>1. Yes</p> <p>2. In order to live and work in Croatia, third country nationals are required to have a stay and work permit. A prerequisite for lodging the application for a stay and work permit is an offer of employment from a Croatian employer for a position that cannot be filled by Croatian nationals, other EU/EEA nationals or third country nationals with the right of residence in Croatia. The application for the stay and work permit is done by the employer who wants to employ third country national. Before submitting an application for a residence and work permit, the employer has to request that the Croatian Employment Service conducts a labour market test. Labour market test is procedure and check of the register of unemployed persons and the procedure of mediation with the aim of hiring workers from the national labour market (15 days). If there is no available workforce on the national labour market, other EU/EEA, employer can request a stay and work permit within 90 days from the date of receiving the result. Croatian Employment Service (CES) is responsible for conducting the labour market test and Ministry of interior issues stay and work permit. To start the process of the labour market test employer needs to register on the Job portal of CES, called Burza rada, and this process is fully digitalized which means that employer can register into this portal by using his e-Citizen account. Upon submission of the request, the CES issues an opinion as to whether the employer meets the legal requirements. The request for a residence and work permit is submitted to the Ministry of Interior, which, based on the administrative procedure, issues a decision on the request within 15 days (if the request is in order and complete). The decisions cannot be made without a positive opinion of the CES, except in cases prescribed by the law;</p>
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- in case the validity of a stay and work permit is extended for the same employer and the same third-country national
- seasonal employment in agriculture, forestry, hospitality industry and tourism for up to 90 days in a calendar year
- a stay and work permit is issued pursuant to Article 110 of the Aliens Act (e.g. key personnel in companies, self-employment in a company/sole trade in which they hold an ownership share of at least 51%, EU Blue Card, intra-corporate transferees, service providers, volunteers, trainees, crew members, etc.).

Third-country nationals may work in the Republic of Croatia only on those jobs for which they have been granted a stay and work permit or a work registration certificate and only with those employers with which they have entered into employment.

3.

Due that Croatian Employment Service is a member of the EURES network, National Coordination office for EURES is established at CES and responsible for the implementation of the Regulation (EU) 2016/589. According to the Regulation, since 2018 CES is transferring job vacancies to the EURES portal. All vacancies are transferred, with few exceptions. With this, the job vacancy of Croatian employer is also visible on EURES portal and candidates can apply. Also, in cooperation with other MS and through support of EURES advisers, Croatian employer can post a job vacancy in targeted MS with the aim of hiring workers from EU/EEA.

4.

Based on the situation on the national, regional and local labour market, in terms of the number and structure of unemployed persons and the needs of individual economic activities, the Management Board of the Croatian Employment Service will make a decision on the occupations for which the employer is not obliged to request the implementation of the labour market test.

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		<p>The assessment of the situation and needs on the national, regional and local labour market it's determined on the basis of criteria relating to:</p> <ul style="list-style-type: none"> <li>• occupations that are missing in the national, regional and local labour market, and cannot be replaced by migration in the country</li> <li>• implementation of strategic and investment projects, and</li> <li>• other circumstances relevant to economic growth and sustainable development.</li> </ul> <p>For occupations that are not on the list, employer needs to undertake labour market test. The list is published online on PES website and its refreshed accordingly. CES provides information on the qualifications in high and low demand (shortages &amp; surpluses) → used for recommendation of changes in education enrollments. The role of the CES in estimating current labour shortages is data elaboration and analysis, decision making for the list of labour shortages and communication of information on labour shortages at the national labour market. List of occupations for which employers don't need to apply for issuing labour market test is updated yearly, the list consists of mutual occupations which are prescribed on national level, and also divided on county level.</p> <p>5.</p> <p>The whole procedure of issuing labour market test relies on the process of mediation and searching for candidates from national labour market, EU/EEA citizen, or legally staying third country nationals, which means that if that job vacancy can be filled in that way, the employer can't get a positive opinion from CES.</p> <p>There are also different issues that CES is checking, on the employer side, before issuing a positive opinion, such as, if employer;</p> <ul style="list-style-type: none"> <li>• performs an economic activity registered in the Republic of Croatia;</li> <li>• has settled liabilities on the basis of public benefits</li> </ul>
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		<ul style="list-style-type: none"><li>• in the last six months, has employed at least one worker who is a citizen of the Republic of Croatia or a citizen of an EEA Member State or the Swiss Confederation on an indefinite and full-time basis in the territory of the Republic of Croatia, and</li><li>• has not been convicted of criminal offences in the field of labour relations and social security</li></ul> <p>6. At the end of August 2024, the number of positive opinion from CES is 124 764 and negative ones is 14 918.</p> <p>7. Due to the situation on national labour market and high shortages in the field of tourism and construction, two important branches in Croatia, and in comparison to previous years, there is a significant increase every year in the number of issued stay and work permits. Also, for a long period of years, most of the third country nationals in Croatia were citizens of neighboring countries, such as Serbia and Bosnia and Herzegovina, but, now we see high flow from Nepal, Bangladesh, India. Now, the top five countries from where the third country nationals come to Croatia are;</p> <ol style="list-style-type: none"><li>1. Nepal</li><li>2. Serbia</li><li>3. Bosnia and Herzegovina</li><li>4. India</li><li>5. Bangladesh</li></ol> <p>As for the whole process of conducting labour market test, this is fully digitalized, everything is performed in the application and due to the fact that in all our regional and local offices, specialized advisers are working on it, the period of prescribed 15 days for issuing opinion from the CES side is accomplished. The application dedicated to work permits its constantly being upgraded, also due to the</p>
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			fact that requests for opinions and labour market test from CES are rising, and we need to accelerate the work of advisers through automation of the process.
	EMN NCP Cyprus	Yes	<p>1. Yes</p> <p>2. <b>(1) Conditions and Processes:</b></p> <ol style="list-style-type: none"> <li>1. Submission of the vacant position through the PES online system which is a prerequisite for the submission of an application for the employment of a third country national.</li> <li>2. Advertise the position to at least two newspapers (citing PES contact details, so that interested persons contact PES for referral).</li> <li>3. If the PES finds suitable matching candidates, they are referred to the employer for an interview. The employer is required to inform the PES whether a candidate was hired and if not provide a proper justification.</li> <li>4. An application for the employment of a third country national, can only be submitted after the submission of the vacant position in PES and newspapers.</li> <li>5. During the examination of the application for the employment of a third country national, the Department of Labour takes into account the results of the PES referrals and the related comments of both unemployed and employer. If the employer refused to hire a suitable candidate the application can be rejected.</li> </ol> <p><b>(2) Responsibilities:</b></p> <p>The PES is responsible to do a Labour Market Test for every notified vacancy and refer appropriate candidates according to the automatic matching between demand and supply. At the same time, the job is listed on the PES online system and the EURES platform, so that all candidates have direct access to</p>

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			<p>it. Employers have to be sincere in an interview with the unemployed and their employment demands and offers must be aligned with those described in the notified vacancy Employers and jobseekers must inform the PES for the outcome of an interview and provide valid justifications for the outcome.</p> <p><b>(3) Duration, Processing time and Costs:</b> The necessary duration of the LMT for evaluation purposes of labour shortages is about two - four weeks. The first job referrals are done within 5 days and continue for as long the job is active in the PES system. The job vacancy may remain activated in the PES system for up to 5 months, or may be terminated earlier by a PES Officer or the Employer. The only cost for the implementation of a LMT is the cost for the publication of the advertisement in the daily press made by the employer.</p> <p>3. All publicly available vacancies registered in the PES are also available and published in the EURES Portal. During the period of a vacancy being available for local and EU jobseekers, the EURES staff at the PES handles all incoming applications from interested jobseekers applying through the EURES portal. All applications are collected, screened and those that match the criteria with the desired local vacancies are being referred to the Employers. We do not proactively look for EU candidates through the EURES jobseeker data base for local vacancies. APIs will be installed in the new PES CPS to enable EURES staff to retrieve job-seekers data(cvs) from the EURES portal. At the moment this practice is not permitted due to dated technologies used by the current CPS.</p> <p>4. The LMT is not applied in the following categories of workers:</p> <ul style="list-style-type: none"><li>• Highly qualified personnel with annual gross earnings over 35000 euro and high academic or professional qualifications. Highly qualified personnel are exempt from the LMT because they are considered essential for the operation and/or development of the business.</li></ul>
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		<ul style="list-style-type: none"> <li>• Special cases, that is, third country nationals who live permanently and have strong ties with Cyprus but are not citizens or they do not yet qualify for citizenship.</li> <li>• Seasonal employees. This category is exempt because they cover seasonal-temporary needs.</li> <li>• Service providers. To facilitate the temporary provision of services from business based in third countries.</li> <li>• Asylum Seekers. LMT is not applied for each vacancy in order to facilitate the employment of applicants for international protection. However, asylum seekers are allowed employment only in specific sectors and occupations where there is a shortage of workers (Cypriots and EU citizens). The list of available occupations is revised regularly according to the labour market situation.</li> <li>• Trainee accountants. They are considered essential for the operation and/or development of the accounting services sector.</li> <li>• Workers in non-profit charitable institutions. This sector is excluded from the LMT in order to facilitate the operation of these institutions.</li> </ul> <p>It is noted that, the above policy was last reviewed in February 2023 and the next revision is scheduled to be implemented before the end of 2024. Revisions usually take place after consultation with the social partners (organizations of employers and employees).</p> <p>5.  <b>The job description is overly specific, limiting the pool of potential domestic or EU candidates.</b> YES, provided that the third country national does not have the specific credentials specified by the employer.  <b>The job vacancy is filled by a national, EU citizen, or legally staying third-country national before the LMT period concludes.</b> YES  <b>A worker referred by the PES is willing to accept the job.</b> YES  <b>The employer unjustifiably rejects a jobseeker who meets all the job requirements.</b> YES</p>
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		<p><b>The PES issues a negative decision based on data indicating a sufficient number of qualified jobseekers available to fill the vacancy. YES</b></p> <p>6. No data is available for rejections related to LMT.</p> <p>7. To facilitate the process for the employment of third country nationals, the LMT period was shortened from six to two weeks (four weeks for over five vacancies) and the vacancy, for the purpose of the LMT, can be simultaneously submitted to the PES with the application for the employment of third country nationals. However, there is a concern that the simultaneous submission may not provide adequate time for an effective LMT.</p>
	<p><b>EMN NCP Czech Republic</b></p>	<p><b>Yes</b></p> <p>1. Yes in specific situation. A labour market test is only carried out if the vacancy can be filled by other means given the availability of labour.</p> <p>2. The regional branch of the Labour Office continuously monitors the situation on the labour market and, on the basis of the monitoring, assesses whether or not it is appropriate to carry out a labour market test in a given region with regard to the unemployment rate, the ratio of supply and demand of the labour force and taking into account the situation in specific areas of economic activities (CZ-NACE) and employment (CZ-ISCO), as well as other relevant factors. In a favourable labour market situation, the law allows the regional office to completely "switch off" the labour market test, while in a less favourable situation the labour market test can be carried out for 30 days.</p>

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			<p>3.</p> <p>In the labour market test process, citizens of other Member States in the territory of the Czech Republic, who are listed by the Labour Office as job seekers or job applicants, are taken into account.</p> <p>Job offers are published in the database of the European portal EURES. A vacancy can be entered into the database of the European portal EURES by reporting it to the staff of the Labour Office of the Czech Republic who are responsible for the vacancy agenda. It is necessary to request the publication of the vacancy on the Integrated Portal of the Ministry of Labour and Social Affairs. This ensures the automatic transfer of the offer from the national database of vacancies to the EURES (see <a href="http://eures.europa.eu/">http://eures.europa.eu/</a> - vacancies section).</p> <p>A vacancy can be disseminated as a "EURES vacancy" - i.e. suitable for workers from other EU/EEA countries and Switzerland - and a request can be made to mark the vacancy to focus just on EU citizens. These vacancies will be highlighted on the EURES European portal with the EU flag symbol and will be displayed there with higher priority to vacancies that the employer has not identified as suitable for workers from other Member States</p> <p>Citizens of the Czech Republic can search for vacancies in the EU through the Czech Labour Office application - see link. EURES vacancies (<a href="https://www.uradprace.cz/eures">https://www.uradprace.cz/eures</a>)</p> <p>4.</p> <p>4.a) If it applies to specific categories, please describe the rationale behind.</p> <p>The labour market test concerns only those third-country nationals who need one of the types of work permits to be employed in the Czech Republic. However, some specific groups of foreigners are exempted, e.g. applicants for international protection, trainees, participants in youth programmes or</p>
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		<p>holders of visas for the purpose of leave to remain (this is a category that may include refugees from Ukraine who do not meet the conditions for temporary protection). In these cases, although a work permit is required for employment, due to the specificity of their labour market situation, the labour market test is not applied.</p> <p>4.b) If there are exemptions for specific categories, please describe the rationale behind and describe the process for reviewing such exemptions and how often these are revised.</p> <p>The groups of foreigners listed in Section 98 of the Employment Act have so-called free access to the labour market, e.g. holders of permanent residence permits, asylum seekers, students, graduates of Czech secondary and higher education, holders of long-term residence permits for the purpose of family reunification (Free Access to the Labour Market - frs.gov.cz). Foreigners with free access to the labour market do not need a work permit to be employed and their employment is not subject to a labour market test, regardless of the labour market situation.</p> <p>4.c) If there is a link with the labour shortages list, please describe briefly how it is established, at what level (national, regional, municipal), whether it is regularly updated and how it impacts on the LMT).</p> <p>N/A</p> <p>5.</p> <p>The job description is overly specific, limiting the pool of potential domestic or EU candidates. YES/NO No.</p> <p>The job vacancy is filled by a national, EU citizen, or legally staying third-country national before the LMT period concludes. YES/NO Yes.</p> <p>A worker referred by the PES is willing to accept the job. YES/NO Yes.</p> <p>The employer unjustifiably rejects a jobseeker who meets all the job requirements. YES/NO Yes.</p>
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		<p>The PES issues a negative decision based on data indicating a sufficient number of qualified jobseekers available to fill the vacancy. YES/NO</p> <p>Yes.</p> <p>Other criteria (please specify). N/A</p> <p>6. No data available</p> <p>7. As of 1 July 2024, it has been possible for regional branches of the Labour Office to completely "switch off" the labour market test in the case of a favourable situation on the labour market in a given region or its parts and therefore not to carry it out at all. This measure responds to the demand from employers to speed up the process of recruiting foreign employees. The labour market test and its 10-30 day duration were the reason for some delay in this process, without leading to the filling of positions by preferred groups - i.e. EU citizens or third country nationals with free access to the labour market - given the long-term prevalence of labour demand over supply on the Czech labour market.</p>
	EMN NCP Estonia	<p><b>Yes</b></p> <p>1. <i>Yes – permission to hire an alien.</i></p> <p>2. <i>If an alien who is not a citizen of the European Union, a member state of the European Economic Area or the Swiss Confederation wishes to stay in Estonia for the purpose of employment, they must have a residence permit to work here. Before they can apply for this from the Estonian Police and Border</i></p>

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*Guard Board, the employer who shall be employing that alien must generally have the Estonian Unemployment Insurance Fund's (hereinafter EUIF) permission to hire that alien.*

*The employer requires the EUIF's permission to fill the job position with an alien in the following cases:*

- *an alien applies for a temporary residence permit to work here;*
- *an alien applies for a temporary residence permit to work here as a temporary agency worker;*
- *an alien applies for a temporary residence permit for a transfer within a company;*
- *an alien changes their employer;*
- *an alien applies for the EU Blue Card;*
- *an alien lives in Estonia on the basis of the EU Blue Card and wants to stop working at their current employer within the first year of the EU Blue Card validation period, for which they were issued the EU Blue Card, and start working for another employer.*

*Specifications when it is not necessary to apply for a permit from the EUIF are listed in § 181 of the Aliens Act (e.g. for employment as a top specialist/expert/adviser/consultant, employment in a growth company/scale up, for employment as a teacher, accredited journalist, sportsman/coach/referee, employment in a performing arts institution etc.).*

*To get a permission to hire an alien, the employer's legal representative must submit a signed application to the EUIF. The application needs to be filled with the following information: employer's details, employment data (e.g. job title, description of duties), qualifications and professional requirements of employee (e.g. required education level and work experience), documents annexed to application (including power of attorney). If an authorised representative submits the application, a power of attorney must also be provided. If the application is submitted via email, the application and the authorisation must be digitally signed.*

*EUIF gives a permission to hire an alien if the following conditions have been met:*

- *the job position cannot be filled with a qualified Estonian citizen, European Union citizen or an alien who lives in Estonia on the basis of a residence permit and meets the occupational requirements;*
- *filling the job position with an alien is justified based on the data from the EUIF and considering the labour market situation.*

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		<p><i>If the application does not have any deficiencies, a decision will be made on whether or not to grant the employer permission to fill the job position with an alien within 7 working days of the date of submission of the application. The EUIF's permission will be valid for submitting a residence permit application for six months of the date of issuing such a permission. There is no state fee regarding the EUIF's permission to hire an alien (state fee must be paid when submitting an application for residence permit and collecting the residence card).</i></p> <p><i>3. No. For advertising the job vacancy, employers are entitled to use their own channels for recruitment to find qualified employees for the job in question.</i></p> <p><i>4. Cases when the employer is required to apply for EUIF's permission to hire an alien are listed in Q2. Specifications when it is not necessary to apply for a permit from the EUIF are listed in § 181 of the Aliens Act. If an application has been submitted to the EUIF, it will assess only the job vacancy/post in question and not the applicant. A temporary residence permit for employment may be issued without meeting the requirement for permission of the EUIF in the following cases:</i></p> <ul style="list-style-type: none"> <li><i>- to an alien who is a minister of religion, nun or monk, who is invited to Estonia by a religious association and this invitation has been approved by of the Ministry of the Interior;</i></li> <li><i>- to an alien who is a journalist accredited by the Ministry of Foreign Affairs;</i></li> <li><i>- to an alien whose right to take employment in Estonia without a specific permit arises from a treaty;</i></li> <li><i>- an alien who works in a performing arts institution as a person engaged in creative activities;</i></li> <li><i>- for employment as a teacher in Estonia in an educational institution which complies with requirements established by the legislation;</i></li> <li><i>- research activities if an alien has appropriate professional training or experience and the research and development institution has signed a hosting agreement with the alien, or employment as an academic</i></li> </ul>
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		<p><i>staff member in Estonia in an educational institution which complies with requirements established by the legislation;</i></p> <ul style="list-style-type: none"> <li><i>- for employment as a sportsman, coach, referee or sports official for professional activities on the basis of a summons from a respective sports federation;</i></li> <li><i>- for employment for the purposes of performing directing or supervisory functions of a legal person governed by public law registered in Estonia;</i></li> <li><i>- an alien is a posted worker;</i></li> <li><i>- an alien has been issued a long-term resident's residence permit of a member state of the European Union;</i></li> <li><i>- an alien has acquired vocational education in Estonia at the fourth or fifth level of vocational training or a higher education in professional higher education or Bachelor's studies, in the studies based on integrated curricula of Bachelor's and Master's studies, in Master's or Doctoral studies;</i></li> <li><i>- employment in a start-up company;</i></li> <li><i>- employment as an au pair;</i></li> <li><i>- for employment as an expert, adviser or consultant provided that an alien has appropriate professional preparation for such activities;</i></li> <li><i>- for the purposes of performing directing or supervisory functions of a legal person governed by private law and a branch of a foreign company registered in Estonia;</i></li> <li><i>- for employment as a top specialist provided that an alien has appropriate professional preparation for such activities;</i></li> <li><i>- for employment in an area specified in the order of the Government of the Republic;</i></li> <li><i>- for employment as an intra-corporate transferee;</i></li> <li><i>- for employment in a growth company.</i></li> </ul> <p><i>Exceptions have been made over the years with amendments to the Aliens Act. The need has arisen from employers, employer associations etc. Last round of exceptions regarding legal migration (and labour migration) entered into force 1st of January 2023. With these amendments the exception of employment in a growth company/scale up was added. Growth company is defined as a company</i></p>
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registered in Estonia with the purpose to continue developing a business model with high global growth potential, innovative and replicable that shall significantly contribute to the development of the Estonian business environment. Until relevant amendment was introduced, Aliens Act stipulated special incentives for hiring foreign labour to start-up companies. At the same time, several innovative and fast-growing start-ups operate in Estonia that have grown out from the start-up phase and who have been in the market for more than 10 years but to whom favorable conditions for recruiting foreign employees no longer apply. With this amendment (and exceptions) more favorable conditions were created to recruit foreign labour. In general, there are three mechanisms that regulate foreign labour in the Estonian labour market: annual immigration quota, salary criterion and permission to hire an alien.

5.

Reasons that can lead to a negative decision are most commonly the following: the job does not meet the required educational and qualification standards, or there is no valid justification for authorizing the position. Additionally, applications for unskilled jobs may be denied if there are suitable jobseekers available in the Estonian labour market. To employ foreigners based on a permit from the EUIF, employers must meet the requirement to pay at least the average Estonian wage (EUR 1,832 gross in 2023). Employers are therefore encouraged to first ensure they have attempted to hire from the local labour market under the same conditions. If needed, the EUIF offers various forms of assistance to help employers in this process.

6.

EUIF's 2023 data on permissions to hire an alien:

Total number of applications for permission to hire an alien	1688
Permission to hire an alien was granted	1505
Number of job vacancies fulfilled	4166
Permission to hire an alien was not granted	170
Application was not processed	13

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			<p>7.  <i>Developments are planned for migration information system (RIS) in order to move towards a single access “window” for different e-services related to legal migration. Developments include: updating a digital environment for processing short-term employment registrations; building capacity for short-term employment data exchange between Police and Border Guard Board (PBGB), Tax and Customs Board and Labour Inspectorate; updating digital environment for processing residence permit applications and creating a self-service portal for submitting applications, creating data exchange possibilities via X-road (an open-source software and ecosystem solution that provides unified and secure data exchange between private and public sector organizations) with the PBGB, Tax and Customs Board, Labour Inspectorate and EUIF; building a consultation service between aforementioned authorities.</i></p>
+	EMN NCP Finland	Yes	<p>1. Yes.</p> <p>2.  (1) The residence permit for an employed person is issued in two stages. The PES (in Finland, ‘TE Office’) makes a partial decision for the residence permit application for an employed person and the Finnish Immigration Service (Migri) issues the final residence permit decision. The PES’s partial decision is based on an overall assessment, which includes a labour market test (LMT) or assessing the availability of labour, the terms of the employment relationship, and both the employer’s and employee’s prerequisites. The employee’s income through gainful employment must also be secured.</p> <p>(2) The residence permit applications for employed persons (in Finland, ‘TTOL’) are processed nationwide without regional jurisdictional boundaries. In the Åland Islands, the applications</p>

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			<p>are processed by Ålands arbetsmarknads- and studieservicemyndighet AMS (The Åland Labour Market and Student Service Authority). See also response to question 3.</p> <p>(3) The LMT is included in the processing fee on the residence permit for an employed person. The duration and processing time depends on if the employer has published the vacancy for two weeks before or after the residence permit application has been submitted. If the vacancy has to be published after the application has been submitted, it adds a couple of weeks to the processing time, as the employer has to report on how successful the recruitment was (see question 3).</p> <p>3. YES</p> <p>When evaluating the availability of labour, the PES takes into consideration job seekers from the entire EU/EEA area.</p> <p>The employer must determine whether it is possible for the company to find a suitable employee from the labour force available in the labour markets of Finland and the EU / EEA area.</p> <p>The employer must publish the vacancy on Job Market Finland (<a href="http://www.tyomarkkinatori.fi/en/employers-and-entrepreneurs/">www.tyomarkkinatori.fi/en/employers-and-entrepreneurs/</a>) for two weeks. The vacancy must include the same terms of employment as stated in the residence permit application and it must be issued under the business ID of the company that is hiring the employee and paying the salary.</p> <p>The employer must then report the number of applicants for the vacancy and whether one of the applicants was selected for the position. If no one was hired, the employer must state why none of the applicants were selected for the position.</p> <p>In addition, the employer must submit the work permit applicant's qualification certificates, certificates of employment or other certificates if the job advertisement sets competence and professional skill requirements for the employee the company is looking for. The certificates must be in Finnish, Swedish</p>
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			<p>or English. If any attachments are in another language, obtain official translations for them.</p> <p>4.</p> <p>(4.a) An employer operating in Finland must primarily recruit an employee from the workforce that is already on the labour market. If applying for a residence permit for an employed person, the employer must first publish a job posting on the vacancy on the public tyomarkkinatori.fi -website for at least two (2) weeks, so that the PES can determine whether there is workforce available for the job on the labour market.</p> <p>(4.b-c) The regional policy on the use of foreign labour is based on the Aliens Act (HE 114/2022). Regional policies are related to the granting of an employee's residence permit and the assessment of the availability of labour, and they define the occupational sectors in which the availability of labour has become reduced.</p> <p>The availability of labour in different occupations and sectors varies according to the structure and situation of the regional and local labour markets. The purpose of a regional work permit policy is to support the availability of labour in the areas of the ELY Centre (Centre for Economic Development, Transport and the Environment), taking into account the special characteristics of the labour market in each region. The policy provides a concise description of the labour market situation and assesses the availability of labour. The work permit policy is updated every six months by the regional ELY Centre. If a person applies for a residence permit for an employed person and the profession is recognized in the regional policy as a profession with reduced availability, the employer no longer has to publish a vacancy before the residence permit application.</p> <p>5.</p> <ul style="list-style-type: none"><li>• The job description is overly specific, limiting the pool of potential domestic or EU candidates. YES</li><li>• The job vacancy is filled by a national, EU citizen, or legally staying third-country national before the</li></ul>
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		<p>LMT period concludes. YES</p> <ul style="list-style-type: none"> <li>• A worker referred by the PES is willing to accept the job. YES</li> <li>• The employer unjustifiably rejects a jobseeker who meets all the job requirements. YES</li> <li>• The PES issues a negative decision based on data indicating a sufficient number of qualified jobseekers available to fill the vacancy. YES</li> <li>• Other criteria (please specify). --</li> </ul> <p>6.</p> <p>Year 2022: Positive decisions 78% (9671), Negative decisions 18% (2296). Of these 18%, about 20% (462) were based on the LMT.</p> <p>Year 2023: Positive decisions 77% (10165), Negative decisions 21% (2778). Of these 21%, about 13% (361) were based on the LMT.</p> <p>H1/2024: Positive decisions 74% (3771), Negative decisions 24% (1235). Of these 24%, about 19% (230) were based on the LMT.</p> <p>7.</p> <p>In the processing of the residence permit application, the LMT is partly automated since 2023. This means that the data system recognizes the municipality and the profession from the application and matches it with the regional policies, i.e. municipalities and the defined occupational sectors in which the availability of labour is reduced. No continued LMT is needed, if the data system recognizes that the profession is on the list of occupational sectors with reduced availability of labour. Manual processing has decreased in this respect.</p>
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<p>■ EMN NCP France</p>	<p>Yes</p>	<p>1. Yes</p> <p>2. Third country nationals who do not qualify for specific procedures and who are not recruited for paid employment in a profession and in a geographical area where there are recruitment difficulties (see below) may see their application for a work permit refused on the grounds of the labour market situation.</p> <p>The procedure is as follows:</p> <p>1. <b>The employer must publish his job offer for a minimum period of three weeks</b> with the organisations involved in the public employment service[1]. These bodies forward the files of national candidates, temporary workers with access to the labour market or European candidates who are interested and qualified for the post. If candidates have applied for the vacancy, the employer must explain why they have not been selected, mention any specific features of the position and justify the reasons for recruiting the foreign employee.</p> <p>2. If, by the end of this period, the employer was not able to fill the vacancy with a candidate who meets the requirements of the proposed position, he or she <b>may then consider recruiting a third-country national and start the formalities to obtain a work permit</b>. Since 6 April 2021, employers have to submit work permit applications via an online service under the aegis of the Ministry of the Interior (at least one month before they start working): <a href="https://administration-etrangers-en-france.interieur.gouv.fr">https://administration-etrangers-en-france.interieur.gouv.fr</a> . Applications are processed by six inter-regional platforms (a seventh platform is dedicated to processing work permit applications for seasonal workers). The application must be supported by various necessary documents listed in the decree of April 1, 2021. When examining the application, the authorities will assess the seriousness of the research carried out by the employer, as well as</p>
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			<p>compliance with the conditions of employment and pay in accordance with French labour law. In the event of non-compliance, it may reject the application for work authorisation on the grounds of the local labour market situation, i.e. that the level of unemployment is too high for the occupation concerned. The regulations stipulate that the decision must be made within a maximum of 2 months following submission of the complete application. If the authorities have not replied within this timeframe, the application is refused.</p> <p>3. As soon as the work permit application has been validated, the employer receives a secure electronic work permit. This must be used to apply for a long- term visa.</p> <p>Employers recruiting foreign workers or posted workers <b>must pay a tax</b> to the Directorate General of Public Finances. This tax should be paid when the foreign employee first enters France or is first admitted to the country as an employee. The employer must be able to provide a summary document of the foreign workers recruited. The tax must be declared and paid annually.</p> <p>The amount of this tax varies according to the employment contract:</p> <ul style="list-style-type: none"><li>- for a period of 12 months or more: 55% of the gross monthly salary paid to the foreign worker, up to a limit of 2.5 times the gross monthly amount of the national minimum wage (i.e. 4,417.30 euros since January 1, 2024). If the gross monthly salary is higher than 4,417.30 euros, the amount of tax is limited to 2,426.75 euros for 2024 ;</li><li>- for a period of more than 3 months and less than 12 months: the amount of the tax is between 50 euros and 300 euros, depending on the gross monthly salary of the person concerned ;</li><li>- for seasonal employment: the amount of the tax is 50 euros per full or incomplete month of paid employment ;</li><li>- for a young professional recruited under a bilateral agreement: the amount of the tax is between 50 euros and 300 euros depending on the gross monthly salary of the person concerned[2].</li></ul>
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			<p>Public research bodies and foundations recognised as being in the public interest; higher education establishments; public scientific cooperation foundations and establishments are exempt from paying this tax.</p> <p>In addition, are exempted from paying the tax, the employer recruiting :</p> <ul style="list-style-type: none"><li>- Citizens of the European Union (EU), the European Economic Area (EEA), Switzerland, Monaco, Andorra and Saint-Martin, as well as third-country nationals holding a "family member of EU/EEA/Swiss citizens" residence permit ;</li><li>- Third country nationals holding a "talent", "talent passport", "resident", "private and family life", "ICT seconded employee", "student", etc. residence permit ;</li><li>- Workers coming to work in France for less than 3 months ;</li><li>- Employees employed by private individuals in their private homes to carry out family or household tasks. ;</li><li>- Employees working in their private homes on a not-for-profit basis to meet personal needs.</li></ul> <p>[1] decree no. 2021-360 of 31 March 2021 on the employment of foreign employees, <a href="https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043311005">https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043311005</a>.</p> <p>[2] <a href="https://www.welcometofrance.com/fiche/cout-employeur">https://www.welcometofrance.com/fiche/cout-employeur</a></p> <p>3. It is the responsibility of these workers, who have free access to the French labour market, to register with the organisations involved in the public employment service and to consult the job offers on offer.</p> <p>4.</p>
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The criterion of opposability of the employment situation only applies to salaried employment subject to the prior obligation to obtain a work permit, and concerns permanent contracts (residence permit bearing the wording "employee"), fixed-term contracts (residence permit bearing the wording "temporary worker"), seasonal employment (residence permit marked "seasonal worker"), or students wishing to work more than the amount of time authorised by their permit, or asylum seekers holding a certificate of application for asylum of more than 6 months (article R5221-3 of the Code on Entry and Residence of Foreign nationals and Right of Asylum).

However, there are various cases in which the employment situation does not preclude the recruitment of a third-country national:

1. Occupations and geographical areas in tension

The recruitment of a third-country national for a job or geographical area where there are recruitment difficulties and which appears on a list drawn up by the administrative authority. The list of occupations concerned is established regionally by the decree of April 1st 2021 relating to the issue, without opposition to the employment situation, of work permits to foreigners who are not nationals of a Member State of the European Union, another State party to the European Economic Area or the Swiss Confederation. A decree dated 1 March 2024 updates the list of short-staffed occupations to include all agricultural occupations[1].

In addition to this list, there are lists of short-staffed occupations included in 9 bilateral agreements signed by France with Benin (16 occupations listed in the agreement), Burkina Faso (64 occupations listed in the appendix to the agreement), the Republic of Congo (Brazzaville) (15 occupations listed in the agreement), Gabon (9 occupations listed in the annex to the agreement), Georgia (50 occupations listed in the annex), Mauritius (61 occupations listed), Senegal (108 occupations listed) and Tunisia (77 occupations listed in the annex to the agreement).

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			<p>2. For foreign students who have graduated in France and have found salaried employment, the employment situation cannot be invoked in the following cases:</p> <p>The employment situation is not applicable to the recruitment of a third-country student holding a degree at least equivalent to a master's degree (or a professional degree) obtained in France during the year and who can obtain an "employee" or "temporary worker" residence permit, for a job related to his/her training, paid at least €2,650.38 gross per month as of 31 July 2024.</p> <p>The employment situation does not apply either to the recruitment of an TCN who has graduated in France with a degree at least equivalent to a master's (or a professional licence) and who can obtain a "job-seeking or business start-up" residence permit, for a job paying at least €2,650.38 gross per month on 31 July 2024.</p> <p>Students from third countries that have signed bilateral agreements with France benefit from special conditions[2].</p> <p>3. Certain categories of unaccompanied minors on apprenticeship contracts or recruited under certain conditions.</p> <p>4. Recruitment under the "young professional" scheme run by the French Office for Immigration and Integration, which enables young people aged between 18 and 40 who are already working to gain work experience in France, for a maximum of 18 months.</p> <p>The aim of this scheme is to improve their career prospects when they return to their country of origin. It is implemented under bilateral agreements signed by France with 17 signatory countries[3].</p>
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		<p>5. Lastly, certain categories of paid employment are exempted from work permit requirements and therefore from an examination of the employment situation :</p> <ul style="list-style-type: none"> <li>- Salaried activities lasting three months or less in the field of events (cultural, scientific, etc.), conferences, visual production, modelling, personal services, auditing assignments or visiting professors.</li> <li>- Salaried activities covered by residence permits marked "talents" or residence permits issued to intra-group seconded employees.)</li> </ul> <p>[1] <a href="https://www.legifrance.gouv.fr/jorf/id/JORFTEXT00004922420">https://www.legifrance.gouv.fr/jorf/id/JORFTEXT00004922420</a>  [2] <a href="https://www.immigration.interieur.gouv.fr/Europe-et-International/Les-accords-bilateraux/Les-accords-bilateraux-relatifs-a-la-mobilite-professionnelle">https://www.immigration.interieur.gouv.fr/Europe-et-International/Les-accords-bilateraux/Les-accords-bilateraux-relatifs-a-la-mobilite-professionnelle</a>  [3] <a href="https://www.immigration.interieur.gouv.fr/Europe-et-International/Les-accords-bilateraux/Les-accords-bilateraux-relatifs-a-la-mobilite-professionnelle">https://www.immigration.interieur.gouv.fr/Europe-et-International/Les-accords-bilateraux/Les-accords-bilateraux-relatifs-a-la-mobilite-professionnelle</a></p> <p>5.</p> <ul style="list-style-type: none"> <li>• The job description is overly specific, limiting the pool of potential domestic or EU candidates. <b>YES</b></li> <li>• The job vacancy is filled by a national, EU citizen, or legally staying third-country national before the LMT period concludes. <b>YES</b></li> <li>• A worker referred by the PES is willing to accept the job. <b>YES if the employer does not justify the reasons for not recruiting him/her</b></li> <li>• The employer unjustifiably rejects a jobseeker who meets all the job requirements. <b>YES</b></li> </ul>
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			<ul style="list-style-type: none"> <li>The PES issues a negative decision based on data indicating a sufficient number of qualified jobseekers available to fill the vacancy. <b>YES if the employer gives no reasons.</b></li> </ul> <p>6. N/A</p> <p>7. The challenges :</p> <ul style="list-style-type: none"> <li>complex and lengthy administrative procedure</li> <li>heavy involvement of the employer in the procedure</li> </ul> <p>A number of recent measures have been taken to improve the labour market review process:</p> <ul style="list-style-type: none"> <li>regular updating of the list of short-staffed occupations to better reflect the realities of the labour market</li> <li>online processing of applications for work permits by regional platforms to simplify procedures and reduce delays</li> </ul>
	EMN NCP Germany	Yes	<p>1. Yes, but only in a few cases.</p> <p>2. (1) The LMT is part of the visa process. In the cases listed under question 3, the visa agency asks the Federal Employment Agency for its approval if someone applies for a work visa. The Federal Employment Agency may give its approval if no German workers, foreigners having the same legal status as German workers with regard to the right to take up employment or other foreigners who are</p>

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			<p>entitled to preferential access to the labour market under the law of the European Union are available for the type of employment concerned (section 39 para. 3 no. 3 of the Residence Act). In an internal process, the local Employment Agency pursues the LMT by comparing the job offer with job queries of unemployed people in their district. The employer must fill out a form and give details concerning the job. If the Employment Agency finds one or more preferable job seekers, they reject the LMT by a note "preferable job seekers in place". If the employer is interested to hire the preferable job seekers, the employment agency refers them to the employer. In addition to the LMT, the general principle of the employment of third-country nationals in Germany applies, meaning that the Federal Employment Agency will also assess whether the working conditions of the third-country national correspond to those of people that are already employed in an equivalent position in Germany.</p> <p>(2) The employer is legally obliged to provide information on pay, working hours and other terms and conditions of employment.</p> <p>(3) The Federal Employment Agency must check within two weeks whether or not it will grant approval of employment of a foreigner. In principle, the LMT as part of the approval-process does not take more than 48 hours.</p> <p>3.</p> <p>Yes. The Federal Employment Agency may give its approval if no German workers, foreigners having the same legal status as German workers with regard to the right to take up employment or other foreigners who are entitled to preferential access to the labour market under the law of the European Union are available for the type of employment concerned. The Federal Employment Agency keeps a central digital register of all people who are registered with them and are looking for a job. It compares the requirements profile searched for in the LMT. If persons with the same job profile are found in the register, they will be proposed to the employer and approval of employment can be rejected.</p> <p>4.</p>
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		<p>In general, the Skilled Immigration Act abolished the LMT for all kind of qualified jobs. The Skilled Immigration Act entered into force on March 1st 2020. A LMT is still necessary if it is required by the Ordinance on the Employment of Foreigners or by law. Currently, there are only a few provisions that stipulate a LMT, for example in case of specialty cooks, seasonal workers, fairground helpers or domestic helpers. The most important is a privileged immigration track for people from particular countries listed in Section 26 of the Ordinance on the Employment of Foreigners, for example the USA, Canada or Japan. Citizens from these countries may get a residence permit for all kind of jobs, also unskilled jobs, regardless of their qualification. If citizens from these countries choose this way of work immigration, a LMT is in place. The test is temporarily suspended for citizens from Albania, Croatia, Montenegro, Bosnia-Herzegovina, North Macedonia and Serbia due to the high demand on the labour market. Nonetheless, the Federal Employment Agency still assesses whether the working conditions correspond to those of people that are already employed in an equivalent position in Germany. The LMT ensures that the interests of other groups in integration into the labour market are not neglected.</p> <p>5.          YES, the job description is overly specific, limiting the pool of potential domestic or EU candidates.          YES, the job vacancy is filled by a national, EU citizen, or legally staying third-country national before the LMT period concludes.          YES, a worker referred by the PES is willing to accept the job.          YES, the employer unjustifiably rejects a jobseeker who meets all the job requirements.          YES, the PES issues a negative decision based on data indicating a sufficient number of qualified jobseekers available to fill the vacancy.</p> <p>6.          In 2023, 67.763 were rejected and 383.622 approvals of employment of a foreigner were granted. At least <b>2.117</b> requests of approval were rejected <b>due to the LMT</b>.</p>
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			<p>7.</p> <p>With the new Skilled Immigration Act, the LMT has ceased for foreigners who have the status of long-term residents in another member state of the European Union and for professional bus and truck drivers from 18th of November 2023. Additionally the LMT ceased for foreigners who want to work in a vocational training from 1st of March 2024.</p>
	EMN NCP Greece	Yes	<p>1.</p> <p>NO.</p> <p>The only relevant procedure that is in place regarding the labour market is the procedure for determining admission volume for provision of dependent work (art. 26, Law 5038/2023) . According to this article:</p> <p>1) The Cabinet of Ministers issue an Act in the last quarter of each year, following a proposal by the Minister of Labour and Social Affairs, which determines the maximum number of positions for dependent and seasonal work based on the annual needs of the country. The maximum number of positions is defined per employment specialty, based on the ESCO European classification of occupations. The same act may provide for an increase in the maximum number of work positions up to ten percent (10%), in order to cover unforeseen and emergency needs, as well as any other relevant detail.</p> <p>2. Once every year the Ministry of Labour and Social Affairs consults with the Economic and Social Committee (O.K.E) and the Public Employment Service (Δ.ΥΠ.Α)) on the short- and medium-term conditions of the Greek economy, taking into account: a) the offer for filling work positions by nationals, European citizens or third-country nationals legally residing in the country, b) the unemployment rate and c) the number of transfers made in previous years.</p> <p>3. The Act of the Cabinet of Ministers of par. 1 also determines the list of employment sectors to which the regulations for the admission of third-country nationals for the purpose of seasonal work apply. The</p>

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			<p>above-mentioned list, as well as any amendment thereof, is notified by the Ministry of Immigration and Asylum to the European Commission.</p> <p>2. -</p> <p>3. -</p> <p>4. -</p> <p>5. -</p> <p>6. -</p> <p>7. -</p>
	EMN NCP Hungary	Yes	<p>1. Yes</p> <p>2.</p>

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		<p>The government agency - when so requested by the immigration authority of competence and jurisdiction in proceedings for the issue and extension of a single permit - shall make out an assessment report on its position whether or not to support a third-country national: taking up employment in Hungary in the position provided for in the prior agreement specified in Subsections (7) and (7a) of Section 7 of the EmpA. [445/2013. (XI. 28.) Gov. decree 17. § a)]</p> <p>The government agency shall support a third-country national taking up employment in Hungary in the position provided for in the prior agreement, if:</p> <p>a) the third-country national has the professional qualifications prescribed in the prior agreement for the job in question;</p> <p>b) the employer has had a valid labor requirement notified for the position for which the third-country national is to be hired;</p> <p>c) after notifying the labor requirement, no worker was available for the position in question, who is registered as a job-seeker according to the EmpA and the decrees adopted for the implementation thereof, and who satisfies the conditions of employment prescribed by the relevant legislation and specified by the employer's labor requirement; and</p> <p>d) the third-country national satisfies the conditions of employment prescribed by the relevant legislation and specified by the employer's labor requirement.</p> <p>[445/2013. (XI. 28.) Gov. decree 19. § paragraph (1)]</p> <p>3. No</p> <p>4.</p> <p>Several categories of third country nationals do not need work permit for employment:</p>
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			<p>For the employment of a third-country national in Hungary within the framework of a contract for employment relationship no work permit is required:</p> <ol style="list-style-type: none"><li>1. if so prescribed by international agreement, an act or government decree;</li><li>2. for the director of a branch or representative office of a foreign-registered business association, as defined by international agreement;</li><li>3. for the staff of diplomatic or consular missions of foreign states, or the branches or offices thereof, if delegated by the state which it represents, for employment at the mission or other body, or for the employment of the close relatives of the staff of a diplomatic or consular mission of any foreign state, subject to reciprocity between the states concerned;</li><li>4. for the staff of international inter-governmental organizations operating in the territory of Hungary under international agreement, and international organizations operating in the territory of Hungary and recognized as such by the public authorities of Hungary (hereinafter referred to as "international organization") if working for the international organization, including their close relatives;</li><li>5. for persons delegated by states which are parties to the agreement for setting up an international organization or a common organ not recognized as an international organization (hereinafter referred to as "delegates") if working for the international organization or the common organ, including the close relatives of such delegates subject to reciprocity between the states which are parties to the agreement;</li><li>6. for carrying out work that involves commissioning, warranty repair, maintenance or guarantee service activities performed on the basis of a private contract with a business entity established in a third country, if it does not exceed fifteen working days within a thirty-day period at any given time;</li><li>7. for work performed by an employer established in a State that is a party to the Agreement on the European Economic Area, other than Hungary, within the framework of cross-border services by way of posting, temporary assignment to a Hungarian employer for the purpose of fulfillment of a private contract;</li><li>8. for work performed by a temporary agency worker within the framework of temporary agency work for a Hungarian employer under placement by a temporary-work agency established in a State that is a party to the Agreement on the European Economic Area, other than Hungary;</li></ol>
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			<p>9. for the chief executives and supervisory board members of business associations with foreign participation;</p> <p>10. for a foreign national winning a tender for post-doctorate related employment, or the János Bolyai Research Scholarship for work performed as part of the tender or the scholarship program;</p> <p>11. for the employment of a third-country national studying at a foreign institution of higher education as part of an apprentice training program arranged by an international student organization;</p> <p>12. for foreign nationals pursuing full-time studies at vocational schools, secondary schools, basic art schools or institutions of higher education located in the territory of Hungary, for performing work under the term of such legal relationship;</p> <p>13. education activities in education institutions in a foreign language, if performed - as verified by the minister responsible for public education or the minister in charge of vocational education - under an international education program signed by the competent ministers of the States affected;</p> <p>14. for the activities of natural persons in the service of an ecclesiastical legal entity of a listed church (ecclesiastical personnel) within the framework of a special ecclesiastical service relationship, under contract of employment or other similar relationship;</p> <p>15. for persons applying for refugee or asylum status, or for subsidiary protection, and for persons granted authorization to stay, for working in Hungary or inside the premises of the reception center, respectively;</p> <p>16. for activities in the field of education, science or art for not more than ten working days per calendar year;</p> <p>16a. for third-country nationals for activities performed under contract for some form of employment with a public-benefit trust carrying out public service functions, or with a higher education institution maintained by a public-benefit trust carrying out public service functions or any other higher education institution, if the duration of residence in Hungary in connection with that contract for employment does not exceed thirty days;</p>
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			<p>17. for researchers for work carried out within the framework of an international agreement between Hungary and another State, provided that this is verified by a certificate issued by the Magyar Tudományos Akadémia (<i>Hungarian Academy of Sciences</i>);</p> <p>18. for the employment of third-country nationals attending practical training courses within the framework of the Comenius, Erasmus, Leonardo da Vinci and Grundtvig programs;</p> <p>19. for the employment of the widow of a Hungarian national, if they lived together in Hungary for at least one year before the spouse's death;</p> <p>20. for researchers for the purposes of carrying out research in Hungary under a hosting agreement concluded with a research organization accredited according to the Government Decree on the Accreditation of Research Organizations Hosting Researchers Who Are Third-country Nationals, and on Hosting Agreements;</p> <p>21. for professional athletes involved in sports activities, and for trainers for their activities to prepare the said professional athletes for sports activities;</p> <p>22. for the employment of the close relatives of the military personnel of Member States which are parties to the Convention between the Parties to the North Atlantic Treaty on the Status of their Forces, signed in London on 19 June 1951 (hereinafter referred to as "NATO-SOFA Agreement") and promulgated by Act CXVII of 1999, stationed in the territory of Hungary and of the civilian staff described under Paragraph a) and b) of Point 1 of Article I of the NATO-SOFA Agreement;</p> <p>23. for the family member of a third-country sponsor provided for in Subsections (5), (7) and (8) of Section 71 of the ARTN, holding a residence permit issued for the purpose of family reunification and legally residing in Hungary for at least one year, provided that the sponsor can be employed without a work permit; and</p> <p>24. for the family member of a person who has been granted refugee or subsidiary protection status, or to the parent of an unaccompanied minor recognized as a refugee, or to his/her guardian in the absence thereof, provided that he/she holds a valid residence permit for the purpose of family reunification;</p>
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		<p>25. for the employment of a third-country national within the framework of public benefit employment, if eligible under Paragraph <i>b</i>) of Subsection (4) of Section 1 of Act CVI of 2011 on Public Benefit Employment and on the Amendment of Regulations Relating to Public Benefit Employment and Other Acts;</p> <p>26. for a third-country national who is eligible for Hungarian Card;</p> <p>27. if the third-country national holds a permit made out by the competent authority of the first Member State to the intra-corporate transferee and if employment in Hungary is exercised in any host entity that belongs to the company or the group of companies specified in the permit issued by the competent authority of the first Member State and employment in Hungary does not exceed ninety days within any one hundred and eighty-day period;</p> <p>28. for a third-country national if applying for residence permit as a frontier worker in accordance with Article 26 of the Withdrawal Agreement;</p> <p>30. for the family members provided for in the ARTN of Hungarian citizen;</p> <p>31. for third-country nationals pursuing the activities of lecturers and research activities while holding a position of lecturer or scientific researcher at an employer covered by Act CCIV of 2011 on National Higher Education, by the Magyar Kutatási Hálózat (<i>Hungarian Research Network</i>) and by any business association whose principal or secondary activity involves the activity listed under heading 72.11, 72.19 or 72.20 of TEÁOR'08 and the Hungarian State owns at least 25 per cent thereof. [445/2013. (XI. 28.) Gov. decree 15. § (1)]</p> <p>5. The job description is overly specific, limiting the pool of potential domestic or EU candidates. <u>YES/NO</u> The job vacancy is filled by a national, EU citizen, or legally staying third-country national before the LMT period concludes. <u>YES/NO</u> A worker referred by the PES is willing to accept the job. <u>YES/NO</u> The employer unjustifiably rejects a jobseeker who meets all the job requirements. <u>YES/NO</u></p>
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			<p>The PES issues a negative decision based on data indicating a sufficient number of qualified jobseekers available to fill the vacancy. <u>YES/NO</u></p> <p>6. Data not available.</p> <p>7. 100/2021 (II. 27.) Government decree on employment-promoting services and subsidies is being amended in order to relieve the burden on Government offices.</p>
■	EMN NCP Ireland	Yes	<p>1. Yes</p> <p>2. The Irish Government's policy is that employment opportunities which arise in Ireland should, in the first instance, be offered to suitably skilled Irish and other EEA nationals, and should only be offered to non-EEA nationals where no suitable candidate emerges from within the EEA to fill the vacancy. A labour market needs test is required for a General Employment Permit and a Contract for Services Employment Permit and the application for an employment permit must be submitted within 90 days (120 days for third level institutions) of the notice being published.</p> <p>In order to complete the Labour Market Needs Test, the employer must advertise the vacancy as follows:</p> <p>A notice must be placed with the Department of Social Protection Employment Services/EURES employment network for a minimum of 28 days (continuously); and</p>

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The notice must be placed on an additional online platform, also for a minimum of 28 continuous days. The online platform can be any website, software or electronic technology that provides online publication of information, with the principal purpose being to publish offers of employment.

Both notices must contain the following information:

- a description of the employment
- the name of the employer
- the minimum annual remuneration
- the location/s of employment
- the hours of work

Employers must not amend or extend the vacancy notice during the advertising period.

3.

Yes. The job is advertised on the EURES portal for a continuous period of 28 days.

4.

A labour market needs test is required under two employment permit types: the General Employment Permit and the Contract for Services Employment Permit. The lmnt applies to these two permit types only as they are aimed at addressing skills shortages below professional skills levels in roles that are not categorized as ineligible. Employment permits cannot be issued for occupations on the Ineligible Occupations List.

A labour market needs test is not required in the following circumstances:

Where the job is an occupation included on the Critical Skills Occupations List

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			<p>Where the job offer is in respect of an eligible employment with a minimum annual remuneration of €64,000. Employment permits cannot be issued in respect of employments, irrespective of remuneration, on the Ineligible List of Occupations for Employment Permits.</p> <p>Where the employee to the application has been made redundant from their previous employment.</p> <p>Where the job offer is for a carer of a person with exceptional medical needs and the non-EEA national has been providing care to the person before the application was made and that person has developed a high level of dependence on that non-EEA national.</p> <p>The exemptions to the lmnt are available in these cases where a role has already been identified as in critical shortage, in roles in demand that attract a higher remuneration or are exceptional circumstances. Employment permits legislation has been revised and updated in 2024 without amendment to these exemptions.</p> <p>Ireland operates a critical skills list and an ineligible list that are reviewed periodically, at a national level. Roles not on the ineligible list may be granted an employment permit.</p> <p>5. Other: The job vacancy is filled by a national or EEA citizen before the period of the LMNT expires.</p> <p>6. Statistics are published by nationality and by sector at: <a href="https://enterprise.gov.ie/en/what-we-do/workplace-and-skills/employment-permits/statistics/">https://enterprise.gov.ie/en/what-we-do/workplace-and-skills/employment-permits/statistics/</a>. A breakdown between employment permit types is not published.</p> <p>7. The Employment Permits Act 2024 updates the Labour Market Needs Test criteria to remove the previous requirement for employers to advertise the vacancies in print media. This has been replaced by the requirement to advertise on another online platform in addition to Jobs Ireland/EURES platform</p>
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			<p>(see answer to question 2) to reflect modern advertising practices. The Employment Permits Act 2024 came into operation from 2 September 2024. The Act also moves operational detail regarding the LMNT to secondary legislation to allow the LMNT to be amended over time in line with evolving recruitment practices.</p>
<p>■</p>	<p>EMN NCP Italy</p>	<p>Yes</p>	<p>1.                  Yes, employers operating in Italy who are interested in hiring a worker who is a citizen of a third country and resides abroad, with certain exemptions provided for in Legislative Decree 286/1998 and subsequent amendments (Consolidated Immigration Act - <i>Testo Unico Immigrazione</i>), are required to first verify with the competent employment center the unavailability of an Italian, EU, or legally residing foreign worker. Such unavailability must be duly documented.                  This process applies to categories of foreign workers, divided by nationality and work sectors, to be admitted to the national territory for subordinate employment, including seasonal work, within the framework of maximum quotas periodically set by the Government (currently through a triennial decree). The entry quotas are determined following an analysis of labour market needs which is conducted by the Ministry of Labor and Social Policies, and consultations with major employers' organizations, trade unions, as well as national associations and entities actively involved in the assistance and integration of foreign citizens.                  Outside the quota system, the employer's request is also subject to LMT for the admission to Italy of highly qualified workers through the issuance of the EU Blue Card, except when the request concerns a third-country citizen already holding another residence permit issued for the purpose of performing highly qualified work.                  The verification of the unavailability of workers present in the national territory is not required:</p> <ul style="list-style-type: none"> <li>• For employers who hire seasonal workers and workers trained abroad.</li> </ul>

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			<ul style="list-style-type: none"><li>• For employers who adhere to or give a mandate to employers' organizations that have signed a specific Memorandum of Understanding with the Ministry of Labor and Social Policies (Interministerial Directive No. 4518 of 10/08/2023).</li></ul> <p>2.</p> <p>The employer who intends to establish a fixed-term or permanent employment relationship in Italy with a third country national residing abroad must first verify with the competent Employment Center that there are no other workers already present in the national territory available to fill the position for which the employer wishes to hire the worker residing abroad, before submitting the request for a work permit. Requests for verification of the unavailability of workers (personnel request form) can only be submitted through the online procedures set up by the Regional Employment Agencies, to which the territorial Employment Centers refer. The request can be submitted directly by the employer or by an individual specifically delegated by them.</p> <p>The personnel request form contains the employer's details, the characteristics of the requested worker's profile (professional sector, applicable national collective agreement, proposed classification, job description, work experience in the sector, technical skills, any educational qualifications, and language skills, possession of a driver's license), and the proposed employment relationship (work location, weekly hours, contractual type).</p> <p>The employer may proceed with the request for a work permit for the foreign worker in one of the following cases:</p> <ul style="list-style-type: none"><li>- No response from the Employment Center to the submitted request within 15 working days from the date of the request;</li><li>- The worker is deemed unsuitable by the employer following a negative outcome of the selection process conducted with candidates sent by the Employment Center;</li><li>- Failure to attend the job interview, without justified reason, after being called by the employer, with at least 20 working days having passed since the date of the request.</li></ul>
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		<p>3. No.</p> <p>4. Regarding question 4.b), under the provisions of the Consolidated Immigration Act - <i>Testo Unico Immigrazione</i> (Legislative Decree no. 286/98) concerning the entry and stay of foreigners for work purposes, Article 27 and following articles outline a series of categories of workers for whom the work permit and the LMT are not required or, when required, are still issued outside the quotas periodically established by the flow decree.</p> <p>These are the so-called "entries outside the quotas," meaning work-related entries that are possible throughout the year and for which there is no numerical limit (with the exception of entries for training internships, professional and amateur sports, and volunteering). Typically, a simplified procedure is provided for the issuance of the work permit. In some cases (e.g., seconded executives, university professors, specialized workers seconded to Italy, seafarers, interns, and journalists), the work permit is entirely bypassed, and the procedure involves directly or, after notifying the One Stop-Shop, applying for the entry visa at Italian diplomatic or consular offices abroad.</p> <p>Regarding question 4.c), the LMT is a national preference mechanism for the admission of foreign workers from third countries into Italy, which is applicable both in the case of establishing maximum quotas and for certain categories exempt from a numerical limit on entry.</p> <p>5. 1. NO 2. NO 3. NO 4. YES, but only in relation to the job interview. There is no obligation for the employer to hire.</p>
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			<p>5. NO</p> <p>6. This information is not available.</p> <p>7. The procedure is generally digitized. The processing times and deadlines for the procedure are specified by the Immigration Consolidation Act – <i>Testo Unico Immigrazione</i>, following the amendments introduced by Decree-Law No. 20 of March 10, 2023.</p>
EMN NCP Latvia	Yes		<p>1. Other.</p> <p>Latvia does not have a labour market test as such but there is a requirement to publish a vacancy that is available to the national and EU job seekers. 10 working days after publishing the vacancy, if a suitable candidate for a vacancy has not been found, an employer is entitled to start a procedure of invitation of a third-country employee. According to the legislation state institutions do not involve in the process of registration of a vacancy and in the process of evaluation of possible candidates. There are cases when the publication of vacancy is not required, e.g., for EU Blue-card holders, education professionals, sportsmen, sports coaches, posted workers, ICT's and if a third-country national changes employer after at least 2 years employment in Latvia. However, this procedure is going to be changed from 1st January of 2025. From that date an employer, willing to employ a third-country national, will be obliged not only to publish a vacancy but to cooperate with a State Employment Agency who will evaluate a situation in the labour market and will offer suitable candidates for this vacancy. If the employer will sufficiently justify the refusal to hire those</p>


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		<p>candidates, the decision will be made allowing to start the invitation procedure. The decision on approval will be taken within 10 working days and the employer will be entitled to appeal it. If during next 12 months since the approval decision was adopted the third-country national who was hired for the respective vacancy, will cease working with this employer, the employer will be allowed to hire another third-country citizen without publishing a new vacancy and without a communication with the State Employment Agency.</p> <p>Exceptions from the labour market test will be kept from the existing regulation (described above), so there still be categories of third-country nationals who will not be subject to the labour market test. The above-mentioned amendments to the national legislative act are currently being discussed among the involved governmental bodies and they still have to be approved by the Cabinet of Ministers.</p>
		2. N/a
		3. N/a
		4. N/a
		5. N/a
		6. N/a

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			7. N/a
	EMN NCP Lithuania	Yes	<p>1. YES</p> <p>2. First, an employer or a temporary employment agency that intends to employ a foreigner must <b>register a vacancy</b> with the Employment Service. The vacancy notice must be active for at least 5 working days. If no suitable candidates that do not require to pass the labor market test (Lithuanian citizens, EU/EEA citizens, or permanent residents) are found, the employer or a temporary employment agency may then <b>submit the documents</b> for the recruitment of the foreigner to the Employment Service. The documents must be submitted within 1 month after the expiry of the vacancy notice.</p> <p>The documents submitted by a regular employer must include:</p> <ul style="list-style-type: none"> <li>• The application form</li> <li>• Passport copy</li> <li>• A copy of the document entitling the foreigner to stay or reside in Lithuania (if available)</li> <li>• statement of the employer’s commitment to employ the foreigner on a full-time basis, for a period of at least 6 months</li> <li>• proof of payment of the application processing fee (€28)</li> </ul> <p>In the application form, regular employers must choose one of the two alternatives:</p> <ul style="list-style-type: none"> <li>• Confirm that the foreigner has the required qualifications and has held a related job for at least 1 year over the past 3 years, OR</li> <li>• Provide information on the monthly salary to be paid to the foreign worker, which must be <u>at least equal to the average monthly gross wage</u> in the national economy as published by the State</li> </ul>

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			<p>Data Agency for the most recent calendar year, and which corresponds to the salary specified for the vacant position</p> <p>It should be noted that, as per Article 61<sup>1</sup>(3)(4) of the Law on the Legal Status of Foreigners, an employer who has committed to hiring a foreigner under a work contract (or any of the employers in a multi-employer contract) is ineligible to do so if they have been penalized within the last year for employing foreigners illegally, undeclared work, or violations related to the employment of foreigners. This also applies if there's been a relevant court conviction in the past five years, or if any administrative penalties related to illegal employment practices were imposed within the last year.</p> <p>Moreover, in order to be able to hire a foreigner under a work contract, the employer must meet the following requirements:</p> <ol style="list-style-type: none"><li>1. It must be registered in the Republic of Lithuania;</li><li>2. It must not be in liquidation or bankruptcy and it must be carrying out economic activity;</li><li>3. It must not have an outstanding debt to the state budget, municipal budgets or funds of the Republic of Lithuania of more than one basic social benefit amount (currently EUR 55);</li><li>4. It may not have any valid convictions for permitting illegal work, undeclared work, or violations of the procedure for employment of foreigners;</li><li>5. There must not have been a period of absence of more than 90 days in the last 180 days for any one employed foreigner, unless the foreigner has been absent due to pregnancy, childbirth, paternity leave and/or childcare leave, sickness or accident, or the employer provides a document confirming that the foreigner was covered by social insurance legislation outside the territory of Lithuania.</li></ol> <p>It should also be noted that the Lithuanian law distinguishes between regular employers and temporary employment agencies. Regular employers directly employ individuals, while temporary employment agencies hire workers and assign them to client companies. To ensure compliance with labor laws, <b>temporary employment agencies must be registered with the State Labor Inspectorate</b> and meet specific criteria to operate. Applications submitted by temporary employment companies must include commitment to hire the foreign worker under a temporary employment contract for at least six months,</p>
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			<p>ensuring full-time work and agreeing to pay the <b>salary</b> mandated by Article 44(1)(2)(a) of the Law on the Legal Status of Foreigners, <b>both during the assignment and between assignments</b>. Article 44(1)(2)(a) states that, during assignments, this salary must be at least equal to the average monthly gross wage in the national economy as published by the State Data Agency for the most recent calendar year, and in between assignments, it must be equal to at least the minimum monthly wage, which is approved by the Government.</p> <p>Employers and temporary employment agencies must be in possession of documents proving the foreigner's qualifications and work experience and submit them to the Employment Service <u>upon request</u>. All foreign documents must be translated to the Lithuanian language and duly certified by the translator.</p> <p>Second, once the Employment Service receives an application for a decision regarding the labor market test, it follows the Description of the Procedure for Adoption of the Decision on the Conformity of the Foreigner's Work with the Needs of the Labor Market of the Republic of Lithuania, approved by Order of the Minister of Social Security and Labor. The Employment Service reviews the submitted application to ensure it meets the required criteria and assesses whether the job vacancy can be filled by a local candidate. Based on the assessment, the Employment Service issues a decision on whether the foreigner's employment aligns with Lithuania's labor market needs. The documents are examined by the Employment Service and a decision is <b>taken within 7 working days from the date of their receipt</b>. The decision is <b>communicated within 3 working days</b> to the relevant parties, including the employer and Migration Department. The decision is made for the duration of the foreigner's employment in Lithuania, but <b>for no longer than two years</b>, in accordance with Article 44(1)(2) of the Law on the Legal Status of Foreigners. The decision remains <b>valid only if the foreigner has been granted a temporary residence permit</b>.</p> <p>Employers and temporary employment agencies retain certain duties after the LMT process is completed. First, if the Employment Service passes a favorable decision regarding the labor market test but the employer or the temporary employment agency subsequently choose not to employ the foreigner, they <b>must report</b> this to the Employment Service and ask to cancel the decision. Second, as</p>
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			<p>of November 4, 2019, employers in Lithuania must submit a Notification on Foreigners Employed (<b>LDU Notification</b>) for foreigners working under employment contracts or seconded to Lithuania for temporary work since September 1, 2019. The LDU Notification must be completed and submitted exclusively through SODRA's Electronic Policyholder Service System (EDAS). The LDU Notification for a foreigner employed under an employment contract (including cases where the foreigner will work abroad on the employer's behalf) must be completed and submitted via EDAS no later than one working day before the employment start date. Third, a <b>revised LDU Notification</b> must be submitted within one working day if the employment contract's duration changes or if the contract is terminated earlier than initially indicated and if the foreigner's grounds for lawful presence in the Republic of Lithuania change.</p> <p>3. NO. The Employment Service forwards all the job vacancies announced by employers to the EURES portal, unless the employer requests not to advertise the position on that portal. However, the Employment Service does not possess information on the interest that the announced positions receive from citizens of other EU countries.</p> <p>4. 4a) LMT is applied generally. Labor market test is NOT applied to:</p> <ul style="list-style-type: none"><li>• EU or EFTA citizens, their family members, and others with free movement rights.</li><li>• Those covered by Article 45 of the Law on the Legal Status of Foreigners</li><li>• Business owners or executives of companies fulfilling specific criteria, such as investment thresholds and job creation.</li><li>• Athletes, coaches, performers, and journalists accredited in Lithuania.</li></ul>
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- Members of recognized religious communities.
- Participants in governmental or voluntary programs.
- Start-up founders with government-approved business plans.
- Foreigners in shortage occupations listed in the official shortage list with unfilled quotas.
- Foreigners in jobs that require high professional qualifications
- Foreigners hired as interns or trainees
- Recent graduates from Lithuanian institutions of higher and vocational educational (within 10 years) seeking work in Lithuania.
- Those granted or eligible for temporary protection.
- Ukrainian citizens and their family members unable to return due to the war.

4b)

The categories that are exempt are defined in the Law on the Legal Status of Foreigners. Any revision of these exemptions requires amendments to the law. In general, revisions are not routine and take place on the basis of developments on the labor market or changes in political goals.

4c)

As noted above, foreigners in shortage occupations listed in the official List of Occupations in Short Supply in Lithuania are exempt from LMT, provided that the quotas are unfilled. The List of Occupations in Short Supply in Lithuania is approved by the director of the Employment Service annually and can be revised once per year. To be included in the list, an occupation must satisfy certain conditions: in industrial, construction, and agricultural sectors, the demand for labor must double the supply, and in the service sector, it must be five times the supply. Additionally, registered job vacancies must account for at least 5% of those employed in that occupation according to SODRA data. Employers and related organizations have to submit proposals by a given deadline, including motivated and substantiated information about anticipated demand growth, investments, and job creation, to the Employment Service for consideration.


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		<p>Once the shortage list is approved, based on labor market monitoring, assessment, forecast, and the quota remaining for the current year, the director of the Employment Service proposes quotas for the upcoming year to the Minister of Social Security and Labor. These quotas, agreed upon with the Minister of the Interior, can be set and adjusted once a year. The minister establishes the procedure for setting annual quotas in coordination with the Minister of the Interior.</p> <p>5. The job description is overly specific, limiting the pool of potential domestic or EU candidates. <b>NO</b> The job vacancy is filled by a national, EU citizen, or legally staying third-country national before the LMT period concludes. <b>YES</b> A worker referred by the PES is willing to accept the job. <b>YES</b> The employer unjustifiably rejects a jobseeker who meets all the job requirements. <b>YES</b> The PES issues a negative decision based on data indicating a sufficient number of qualified jobseekers available to fill the vacancy. <b>YES</b> <b>Other criteria (please specify)</b> The grounds for passing a negative decision are defined in Article 61<sup>1</sup>(2) of the Law on the Legal Status of Foreigners. The Employment Service will refuse to confirm the compliance of a foreigner's work with the labor market needs of the Republic of Lithuania for reasons including but not limited to: the foreigner not meeting local labor market needs or residence permit conditions, remuneration not meeting statutory levels, the employer's history of labor or employment law violations, or the employer being insolvent, bankrupt, or inactive. Additional reasons include significant tax arrears, submission of false documents or incomplete paperwork, and non-compliance with insurance requirements.</p> <p>6. In 2023, there were 4,002 positive decisions, a significant decrease from the 10,452 made in 2022. The decrease has been the result of a number of factors, including quota limitations, changes to the List of</p>
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			<p>Occupations in Short Supply in Lithuania, simplified employment procedures for Ukrainians, and legal amendments related to the issuance of national visas.</p> <p>Please note that, technically, all decisions were positive since a decision by the Employment Service means that the Employment Service did not find grounds for not passing a decision which are defined in Article 61<sup>1</sup>(2) of the Law on the Legal Status of Foreigners. Therefore, the percentages of positive and negative decisions are not available.</p> <p>7.</p> <p>As it was mentioned before, the decision on whether the foreigner's employment aligns with Lithuania's labor market needs is valid only if the foreigner has been granted a temporary residence permit. In this regard, there have been significant developments in Lithuania since 2021 simplifying and reducing the overall LMT process. Most notably, since 2023, the Migration Department launched temporary residence permit service through an external service provider and the term for issuing temporary residence permits has been shortened by 1 month.</p>
	<b>EMN NCP Luxemb ourg</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. YES.</li> <li>2. In Luxembourg the Labour Market Test has been simplified by means of a legislative amendment on September 1, 2023. When hiring a third-country nationals, the employer has to: <ol style="list-style-type: none"> <li>1. submit a declaration of vacant position to ADEM (National Employment Agency - <a href="https://adem.public.lu/en/employeurs/declarer-poste-vacant.html">https://adem.public.lu/en/employeurs/declarer-poste-vacant.html</a>).</li> <li>2. apply for a certificate granting the right to hire a third-country national for this position (foreign workforce certificate).</li> </ol> </li> </ol>

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			<p>Within two business days following the declaration of the job vacancy and the application for a certificate, the ADEM send an acknowledgement receipt by email, with the information regarding the employer counsellor who will be in charge of the file.</p> <p>Two different procedures may apply regarding the foreign workforce certificate:</p> <p><b>1. Request for a certificate for a profession with strong labour shortage</b></p> <p>If the job advertised corresponds to one of the professions on the list of occupations in acute shortage, published annually by ADEM (<a href="https://adem.public.lu/dam-assets/fr/publications/adem/metiers-penurie.pdf">https://adem.public.lu/dam-assets/fr/publications/adem/metiers-penurie.pdf</a>), the employer will receive the certificate within 5 business days from the acknowledgement receipt date.</p> <p><b>2. Request for a certificate for a profession with no significant labour shortage</b></p> <p>If the job advertised does not appear on the list of occupations in acute shortage, ADEM has 7 business days from the date of acknowledgement of receipt of the certificate application to check the availability of registered jobseekers for the declared position.</p> <p>If at the end of this period, the ADEM finds that no jobseeker corresponding to the profile of the job vacancy, a certificate is issued within 5 business days.</p> <p>If the ADEM concludes that one (or more) jobseekers may be suitable for the employer, a new period of 15 business days opens up in order to propose jobseekers who match the profile.</p> <p>After the last placement proposal, the ADEM notifies the employer that they have one month to provide feedback on the proposed jobseekers.</p> <p>If the employer meets this obligation and provides a valid explanation for rejecting the proposed jobseeker, a certificate will be issued within 10 business days.</p> <p>If the employer does not meet this obligation, or if the ADEM considers that it has proposed a jobseeker with an appropriate profile for the declared position the application will be rejected within 10 business days.</p> <p>The certificate is valid for 3 months and cannot be extended.</p>
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			<p>The job offer will remain active for 2 months (unless the employer chooses a shorter or longer period). After that, the period in questions, the offer automatically terminated. There are no associated costs of the LMT.</p> <p>3. See answer to Q.2.</p> <p>4. The LMT only applies to job vacancies regarding occupations not declared to be in acute shortage.</p> <p>1. The main objective of the LMT is to provide the opportunity to the fill the post with an EU citizen or a third-country legally residing in the territory, helping the employer by facilitating the filling of the post as the procedure for obtaining a residence permit for a worker who is not a resident in the territory can last up to four months. In the exposition of motives of bill n° 8227 it is indicated that if at the time of requesting the certificate, the ADEM finds that there are registered and available jobseekers, a new period of 15 business days opens up in which the ADEM will be able to propose these jobseekers to the employer before having to issue a certificate for the recruitment of a candidate from a third country.</p> <p>This derogation enables the ADEM to react in a very short notice in order to meet the demands of the labour market and will give employers a greater security in the recruitment planning and procedure. In addition, it represents an advantage regarding talent attraction to Luxembourg, in a time where labour shortage is prevalent in the labour market.</p> <p>Furthermore, the job vacancies declarations provides the ADEM with useful information regarding the needs of the labour market.</p> <p>1. Applicants for international protection, beneficiaries of international protection, Blue Card Holders, holders of a family member residence permit, beneficiaries of postponement of removal or of a suspension of removal and salaried workers in a occupation declared to be in acute shortage are exempted of a LMT. In the exposition of motives of the bill n° 8227, the legislator</p>
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		<p>explains that the amendments to the Labour Code and the Immigration Law regarding the LMT were motivated by the following drivers:</p> <ol style="list-style-type: none"> <li>a. The three week waiting period before being able to apply for a certificate was seen as counterproductive and was waived. The certificate request is processed by the ADEM as soon as the application comes in and according to one of the two procedures described under point 2).</li> </ol> <p>This legislative amendment was necessary in order to improve competitiveness and attractiveness in the Luxembourgish labour market. Indeed, an overly complicated recruitment process is an obstacle to the development of businesses and to the establishment of new companies in Luxembourg.</p> <ul style="list-style-type: none"> <li>• It should also be noted that, in the current socio-economic context, Luxembourg, as its neighbouring countries, is experiencing shortages of workers in a large number of sectors, measures being needed to make up for this shortage of labour and talent. In this respect, but also in the interests of administrative simplification, the opening of the labour market (no work permit) for family members of third-country nationals, holders of a Luxembourg residence permit, was also implemented.</li> <li>• In the same vein, the bill provides easier access to the labour market for third-country nationals who benefit from a postponement of removal or from a suspension of removal, as well as applicant for international protection.</li> </ul> <p>5. See answer to Q.2 regarding case 2. The ADEM can issue a negative decision in the following cases:</p> <ol style="list-style-type: none"> <li>1. The job description is overly specific, limiting the pool of potential domestic or EU candidates. <b>YES</b> (if in the job profile some criteria is considered by the ADEM exaggerated and not necessary for the job in question)</li> </ol>
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			<p>2. The job vacancy is filled by a national, EU citizen, or legally staying third-country national before the LMT period concludes: <b>YES</b></p> <p>3. A worker referred by the PES is willing to accept the job. <b>NO</b>. The employer has to accept the worker first.</p> <p>4. The PES issues a negative decision based on data indicating a sufficient number of qualified jobseekers available to fill the vacancy. <b>YES</b></p> <p>6. 01.01.2024 – 31.07.2024 Certificates for occupations in strong labour shortage – Approval:4893/Refusals:385 Certificates for occupation not in strong labour shortage – Approval:1885/Refusals:1954</p> <p>7. The procedure put into place since 2023 is relatively new and has simplified the process.</p>
	<p>EMN NCP Netherla nds</p>	<p><b>Yes</b></p>	<p>1. YES</p> <p>2. 1) If an employer wants to employ a third-country national for less than 3 months, or the third-country national already has a residence permit, the employer will probably need to apply for a work permit (tewerkstellingsvergunning, twv) at the Netherlands Employees Insurance Agency (UWV). If the employer wants to employ a third-country national for more than 3 months, the employer needs to apply for a single permit: a combined residence and work permit (GVVA) (type depends on the purpose and duration of the stay). The application must be submitted to the Immigration- and Naturalisation Service (IND). In this procedure UWV advises the IND regarding admission to work. In the advice that the UWV</p>

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			<p>draws up, the UWV tests the request for advice against Articles 8 and 9 of the Labour Act for Aliens (Wav). This step concerns the application of the LMT. Among other things, the UWV tests whether there is priority supply. This means that the UWV examines whether someone from the Netherlands, the EU, EEA or Switzerland can fulfil the intended employment position. If this is the case, the UWV advises to not issue a single permit. In addition, the UWV examines whether the gross monthly wage is in line with the market, i.e. as is usual in the sector and at least equal to the minimum wage and if the employer provides suitable housing for the third-country national. The UWV also tests the other conditions that follow from the Wav and the Aliens Employment Act Implementation Regulations (RuWav). As a result, the UWV issues a recommendation and sends it to the IND.</p> <p>The UWV's advice to the IND in a work permit procedure therefore consists of a test against the conditions of the Wav. This test can involve a full labour market test or a limited test. If the UWV tests against all conditions arising from Articles 8 and 9 of the Wav, this means that the UWV performs a full labour market test. A full test means that the UWV tests for priority supply on the Dutch and European labour market. Moreover, it is tested whether the employer reported the vacancy in timely manner and whether the employer made sufficient efforts to fill the vacancy with domestic or EU supply. For specific activities, however, there are exceptions and a limited test takes place. A limited test is a relaxed test based on Article 8 paragraph 3 of wav and the implementation paragraphs of the RuWav. These applications are not required by law to be labour market tested. That means that the UWV does not test whether a supply is available, whether the vacancy has been reported to the UWV and whether the employer has made sufficient recruitment efforts to fill the vacancy with domestic or EU supply. The limited test applies for amongst others working students, trainees, apprentices, spiritual ministers, knowledge migrants short residence (maximum 3 months) and artists. These categories are included in the RuWav.[1]</p> <p>2) Responsibilities of:</p>
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		<ul style="list-style-type: none"><li>• Employer: before the employer can apply for a single permit or work permit (depending on the purpose and duration of the stay) the employer needs to register the vacancy to the UWV five weeks before he/she submits the application.[2] The employer must be able to show that suitable staff cannot be found within the Netherlands, EU/EEA and Switzerland, and must be able to show that he/she has made effort in a period of three months before he/she submits the application, to recruit an employee from the Netherlands, EU/EEA and Switzerland.[3]</li><li>• UWV (public employment service organisation in the Netherlands): The UWV conducts the LMT and examines whether or not there are candidates present in the EEA and the Netherlands who could fulfil the vacancy. If this is the case the application will be denied. (see for more detailed steps in the LMT procedure 2(1).</li></ul> <p>3) The decision period in the Netherlands of an application for a GVVA is 90 days, the target time is seven weeks, including the labour market test, if the application is complete.[4]</p> <p>[1] Link to the RuWav: <a href="https://wetten.overheid.nl/BWBR0046054/2024-01-01/0">https://wetten.overheid.nl/BWBR0046054/2024-01-01/0</a></p> <p>[2] Information retrieved from the answer to ahq 2021.17; UWV, 'werkvergunning', <a href="http://www.uwv.nl/werkvergunning">www.uwv.nl/werkvergunning</a>, last accessed 9 September 2024.</p> <p>[3] UWV, 'werkvergunning', <a href="http://www.uwv.nl/werkvergunning">www.uwv.nl/werkvergunning</a>, last accessed 9 September 2024.</p> <p>[4] Richtlijn inzake enkelvoudige toelatingsprocedure en de gecombineerde vergunning voor verblijf en arbeid (GVVA), <a href="https://www.eerstekamer.nl/bijlage/20220614/bnc_fiche_over_com_2022_655/document3/f=/vltsk243mf-ev.pdf">https://www.eerstekamer.nl/bijlage/20220614/bnc_fiche_over_com_2022_655/document3/f=/vltsk243mf-ev.pdf</a>, last accessed 9 September 2024.</p>
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			<p>3. Yes. The Netherlands checks the availability of workers from other EU Member States during the LMT process.</p> <p>The employer must be registered at least 6 weeks in advance on EURES in order to submit a work permit. However, they can also choose to find suitable candidates in the EU/EER in other ways, such as via (international) temporary employment agencies. At the application the employer must prove which efforts have been made. UWV makes use of the available information in the EURES-system. If many European jobseekers are registered, the employer has to explain why he did not succeed in filling in the vacancy with one of them.[1]</p> <p>[1] Information retrieved from the answer to ahq 2021.17</p> <p>4. In the Netherlands, the LMT is applied generally and not only to specific categories. However, as described in the answer to question 1, there are two scenarios: 1) conducting a full LMT, or 2) conducting a limited LMT. For the latter this means that the UWV does not test whether a supply is available, whether the vacancy has been reported to the UWV and whether the employer has made sufficient recruitment efforts to fill the vacancy with domestic supply. It applies to working students, trainees, apprentices, spiritual ministers, knowledge migrants short residence (maximum 3 months) and artists.[1]</p> <p>4 b) It was a policy choice that the aforementioned categories receive a limited LMT. The legal basis for this is laid down in Article 8 of the Labour Act for Aliens (wv).</p> <p>4 c) NA</p>
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			<p>[1] IND, 'EAUT Aanpassing Wet Arbeid Vreemdelingen (WAV)', 14 april 2020. <a href="https://ind.nl/nl/documenten/06-2022/eaut-aanpassing-wet-arbeid-vreemdelingen-wav-april-2020.pdf">https://ind.nl/nl/documenten/06-2022/eaut-aanpassing-wet-arbeid-vreemdelingen-wav-april-2020.pdf</a></p> <p>5.</p> <ul style="list-style-type: none"><li>• <b>The job description is overly specific, limiting the pool of potential domestic or EU candidates. YES/NO</b> Yes. One aspect which is tested during the LMT is whether the employer has made sufficient recruitment efforts to fill the vacancy with domestic or EU supply.</li><li>• <b>The job vacancy is filled by a national, EU citizen, or legally staying third-country national before the LMT period concludes. YES/NO</b> Yes. The main factor that is tested during the LMT is whether there is priority supply available.</li><li>• <b>A worker referred by the PES is willing to accept the job. YES/NO</b> Yes. The main factor that is tested during the LMT is whether there is priority supply available.</li><li>• <b>The employer unjustifiably rejects a jobseeker who meets all the job requirements. YES/NO</b> Yes. The main factor that is tested during the LMT is whether there is priority supply available.</li><li>• <b>The PES issues a negative decision based on data indicating a sufficient number of qualified jobseekers available to fill the vacancy. YES/NO</b> Yes. The main factor that is tested during the LMT is whether there is priority supply available.</li><li>• <b>Other criteria (please specify).</b> When the vacancy is not reported in timely manner, this can lead to a negative decision.</li></ul> <p>6.</p>
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**Table 1:** Number of positive and negative Labour Market Test advices by the UWV to the IND and the granting of work permits 2023-2021. (not including limited LMT) Source: UWV, Annual reports 2022 and 2023. [https://2022.uwvjaarverslag.nl/FbContent.ashx/pub\\_1000/downloads/v230419150717/uwv-kwantitatieve-informatie-2022.pdf](https://2022.uwvjaarverslag.nl/FbContent.ashx/pub_1000/downloads/v230419150717/uwv-kwantitatieve-informatie-2022.pdf), [https://www.uwv.nl/imagesdxa/uwv-kwantitatieve-informatie-2023\\_tcm94-456766.pdf](https://www.uwv.nl/imagesdxa/uwv-kwantitatieve-informatie-2023_tcm94-456766.pdf)


	2023	2022	2021
Workpermit granted	162	159	132
Workpermit refused	263	246	162
Positive advice at IND	1361	682	305
Negative advice at IND	935	701	300

7.

One of the measures that was taken is the National Support Point for Labour Migration of UWV and was launched in 2023. The support point is intended to support employers in collaboration with the regional employer service points who are looking for staff. This also includes supporting employers who cannot fill their vacancy with Dutch and/or European supply (the priority supply) and ultimately want to apply for a work permit. In addition, the National Support Point for Labour Migration provides information that relates to both (mandatory) recruitment within the Netherlands and the EEA/Switzerland and to submitting the application for the permit.[1]

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			[1] UWV, 'hulp bij werkvergunning voor personeel uit het buitenland', <a href="https://inspiratie.uwv.nl/werkgeverschap/LSA-geeft-advies-over-werkvergunning#:~:text=Het%20Landelijk%20Steunpunt%20Arbeidsmigratie%20(LSA)%20helpt%20bij%20vragen%20en%20informatie,van%20het%20LSA%20voor%20werkgevers">https://inspiratie.uwv.nl/werkgeverschap/LSA-geeft-advies-over-werkvergunning#:~:text=Het%20Landelijk%20Steunpunt%20Arbeidsmigratie%20(LSA)%20helpt%20bij%20vragen%20en%20informatie,van%20het%20LSA%20voor%20werkgevers</a> , last accessed 9 September 2024.
	EMN NCP Poland	Yes	<p>1. Yes</p> <p>2. The job market test is intended to verify whether there is an unemployed Polish citizen, a citizen of an EU Member State or a foreigner with a specific residence status who meets the employer's requirements for the position offered to a foreigner. A negative result of the job market test is the basis for granting a foreigner a work permit or a permit for temporary residence and work. The job market test is a separate procedure from the work permit procedure. The employer starts the job market test procedure by submitting a job offer containing a job description and the requirements that the candidate for this position should meet. The offer should be submitted to the starost (district employment office) competent for the place of work. After accepting the offer, the starost checks the registers to see if there are candidates who meet the employer's requirements among the unemployed and job seekers registered at the employment office. If there are such candidates, the office informs the employer of the number of candidates, indicating how many of them are Polish citizens, EU citizens and other foreigners taking advantage of the freedom of access to the Polish labour market. Then, in consultation with the employer, the starost refers the unemployed to this entity. If the employer does not agree to send unemployed people or does not hire them for work without a justified reason, the starost issues information on the possibility of meeting the staffing needs of this entity, which means that it is impossible to obtain a work permit for a foreigner. If there are no suitable candidates among the</p>

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unemployed and job seekers for the offered position, the starost issues information stating that it is impossible to meet the employer's staffing needs, which for the voivode considering the work permit case means consent to employ the foreigner. The labour market test procedure lasts from 14 to 21 days, depending on whether there are people in the unemployed registers who meet the employer's requirements or not.

3.

The district labour office (starost, *starosta*) takes into account only the registers of unemployed and job seekers. If there are EU citizens in these registers, they are included in the labour market test procedure on an equal basis with Polish citizens.

4.

Polish regulations provide a number of exceptions to the obligation to conduct a labour market test. There are exceptions that are universal (nationwide) and local, applicable in a given province.

The obligation to conduct a labour market test is not required in the case of professions specified in the regulation of the Minister of Labour and Social Policy specifying cases in which a work permit for a foreigner is issued regardless of the detailed conditions for issuing work permits for foreigners. The list of deficit professions, which is an annex to this regulation, was prepared based on information provided by employers and analyses regarding the availability of employees performing specific professions in relation to job offers reflecting the demand on the labour market.

Regardless of this, each voivode may issue an act of local law in which he/she will specify an additional list of professions and types of work that are particularly desirable in the province. For foreigners performing work in these professions in the province, this means that there is no requirement to conduct a labour market test.


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			<p>The exemption from the labour market test also applies to, among others: foreigners for whom the employer applies for an extension of a work permit, as well as citizens of selected countries in the case of seasonal work permits.</p> <p>5. According to Polish regulations governing the labour market test procedure, the circumstances that may affect the test result not allowing for issuing a work permit for a foreigner are as follows:</p> <ul style="list-style-type: none"><li>- the job offer was not accepted due to the employer being punished or other circumstances specified by law for refusing to accept the offer;</li><li>- the employer did not agree to refer unemployed people who, according to the starost, met the employer's requirements specified in the job offer;</li><li>- the employer did not hire an unemployed person/people who were interested in taking up work in the offered position, met the requirements and reported to the employer.</li></ul> <p>In the event that the requirements for work in the offered position were specified in such a way that there would be no unemployed person who meets them - the starost does not take into account the requirements that are inappropriate for a given position and refers the employer to unemployed people who, in his/her opinion, meet the requirements related to work in a given position.</p> <p>6. In 2023, 48,603 LMTs were made for 135,865 job positions.</p> <p>In 5.33% of LMTs (2.40% of job positions) an employee was found.</p>
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		<p>7.</p> <p>In 2022, a functionality was introduced in the IT system thanks to which the result of the labour market test, i.e. information from the starost on the possibility of meeting the employer's staffing needs, is made available for review by the voivode, who considers the issue of a work permit for a foreigner via this system. Thanks to this, the applicant does not have to attach a document regarding the labour market test to the application for a work permit; it is enough to indicate the identification number.</p> <p>Due to the very low registered unemployment rate in Poland for several years, and therefore the low effectiveness of the current labour market test procedure, work is underway to modify the labour market test system.</p>
	<b>EMN NCP Portugal</b>	<p><b>Yes</b></p> <p>1. NOThe labour market test was repealed in 2022, by Law no. 18/2022, of August 25, after years of suspension during the pandemic. The national PES (IEFP), as well as the respective competent services in each autonomous region (Madeira and Azores), maintain an information system of job vacancies, via the Internet, that is permanently updated and accessible to the public, disseminating job vacancies on their own initiative or at the request of employers or immigrant associations recognised as representative of immigrant communities by AIMA, under the terms of the law (Law no. 23/2007, of July 4th, in its current wording). Also, new entry visas were created to facilitate labour migration, such as:</p> <p>a) Job seeker visaThe job seeker visa entitles its holder to enter and remain only in Portugal for the purpose of looking for job; authorizes him/her to carry out a subordinated work activity, until the visa expires or until the residence permit is granted. This visa is granted for a period of 120 days, renewable for another 60 days and allows only one entry into Portugal. The issuance of this visa supposes the attribution of a date of scheduling in the competent services, within the period of validity of 120 days of</p>

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			<p>the visa, and it allows the applicant, after the formalization of the employment contract throughout that period, the right to apply for a residence permit. To do so, the applicant must fulfil the general conditions for granting a temporary residence permit, under the terms of article 77 of the Law. Once the maximum validity limit of the visa for looking for work has expired, without an employment relationship having been established nor the process of requesting the granting of a residence permit having begun, the visa holder must leave the country. In these situations, the applicant can only re-apply for a new visa application for this purpose, one year after the expiry of the previous visa's validity. The request for a visa extension by a job seeker visa holder must be accompanied by a proof of registration intention with the national PES (IEFP) after arrival in Portugal, available online, and a declaration by the applicant indicating that the conditions of the planned stay are maintained, which will be assessed considering the reasons that justified its issuance. b) Remote work / digital nomad visa Subordinate workers and self-employed professionals are granted residence visas for the exercise of professional activities provided remotely to natural or legal persons with their domicile or registered office outside national territory, and must prove the employment relationship or the provision of services, as the case may be. They must also present a proof of average monthly income for the last three months with a minimum value equivalent to four monthly minimum guaranty remuneration, as well as a document attesting their fiscal residence. Portugal has in place a number of agreements that also aim to facilitate labour migration, while meeting the labour market needs and protect migrants, namely: a) India Signed in 2021 and in force since 2022. Legal base: Decree no. 27/2021, of December 20 (establishes the procedures for the admission of Indian citizens to carry out a professional activity under a labour contract in Portugal, creating a legal framework for the recruitment, hiring and admission of Indian citizens). b) Morocco Signed in 2022. Legal base: Decree no. 2/2022, of July 14 (defines the procedures for the admission of Moroccan nationals to carry out a professional activity under a labour contract in Portugal, creating a legal framework for the recruitment, hiring and admission of Moroccan nationals). The implementation of the agreement is carried out by the Public Employment Services of Portugal (IEFP) and Morocco (ANAPEC). IEFP collects and shares job offers, registered by the employer for the purpose of the agreement, and ANAPEC is responsible for the pre-selection of suitable jobseekers. c)</p>
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		<p>CPLP (Community of Portuguese-Speaking Countries) Signed in 2021 and in force since 2022 (with Law no. 18/2022, of August 25). Nationals of states in which the CPLP Agreement is in force who hold a short-stay visa or a temporary stay visa or who have legally entered national territory may apply for a CPLP residence permit in national territory at AIMA (the national agency for migration and asylum). The granting of the residence permit depends, with the necessary adaptations, on compliance with the conditions for granting a residence visa and a CPLP residence permit. In these cases, For the purposes of issuing the residence permit, the competent services shall consult the applicant's Portuguese criminal record. Under the CPLP agreement, the Ministry of Labour, Solidary and Social Security of Portugal established memorandums of understanding with its counterparts in Cape Verde and Mozambique for sharing job offers and developing recruitment processes through Public Employment Services. Furthermore, in order to implement these agreements and speed up procedures for obtaining labour visas, the Ministry of Foreign Affairs and the Ministry of Labour, Solidary and Social Security issued the Order no. 2916/2023, of March 3, which determines the procedures for the appointment by the national PES (IEFP) and by the Authority for Labour Conditions (ACT) of labour attachés in Morocco, East Timor, India and Cape Verde or in other countries that may be considered relevant. Until now, only PES has appointed labour attachés, that are responsible for:</p> <ul style="list-style-type: none"> <li>• Verifying employers, the conditions offered in job vacancies and employment contracts (or promises of employment contracts);</li> <li>• Verifying the documents required for the instruction and granting of permanent or seasonal work visas, job-search visas and, if applicable, vocational training visas;</li> <li>• Undertaking specific procedures defined in the Labour Mobility Agreements;</li> <li>• Providing information to future migrants about living and working conditions in Portugal;</li> <li>• Coordinating with local partner organisations (PES, labour authorities and other institutions).</li> </ul> <p>2. N/A</p> <p>3. N/A</p>
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			<p>4. N/A</p> <p>5. N/A</p> <p>6. N/A</p> <p>7. N/A</p>
	<b>EMN NCP Slovakia</b>	<b>Yes</b>	<p>1. Yes.</p> <p>2. (1 and 2) Before submitting an application for a temporary residence permit for the purpose of employment (a single permit), the employer must first verify with the Office of Labour, Social Affairs, and Family (hereinafter referred to as the "Office") the possibility of filling the job position with a third-country national (without requiring their departure). The application for the issuance of a confirmation on the possibility of filling the vacant position (Article 21b of Act No. 5/2004 Coll. on Employment Services) is to be sent to the Office (exclusively electronically through Central Public Administration Portal). The Office will issue a confirmation on the possibility of filling the vacant position, which includes consent to fill the position if the vacant job cannot be filled by a job seeker registered in the register of job seekers. When issuing the confirmation on the possibility of filling the vacant position, the Office considers the labor market situation and verifies that the legal conditions for issuing the confirmation are met. The confirmation is sent by the Office (exclusively electronically through Central Public Administration Portal) to the Ministry of Interior and the Ministry of Foreign and European Affairs, depending on which competent authority the employer indicates in the application for the issuance of the confirmation, as well as to the employer.</p>

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		<p>A third-country national may apply for a temporary residence permit for the purpose of employment only if the Office has issued a positive confirmation. The confirmation sent by the Office to the employer serves as proof of the legal performance of employment – an additional employment certificate is not issued.</p> <p>The conditions for issuing a confirmation on the possibility of filling a vacant position, which includes consent to fill the position, are as follows:</p> <ul style="list-style-type: none"> <li>• The employer interested in hiring a third-country national, the so called user employer[1], or the host entity has not been fined for violating the prohibition of illegal employment within the five years preceding the application submission.</li> <li>• The employer interested in hiring a third-country national, or the so called user employer, has reported the vacant position and its characteristics to the relevant Office (according to the place of employment) at least 20 working days before submitting the application, or at least 15 working days before if the confirmation is for the possibility of filling a vacant position for renewing a temporary residence permit for seasonal employment, or no later than on the day of application submission if the confirmation is issued for certain selected situations.</li> <li>• The documents, such as a copy of the decision recognizing the third-country national's educational certificate and a copy of the decision recognizing the professional qualification, meet the requirements for performing the regulated profession mentioned in the employment contract or the employer's commitment for employment.</li> <li>• The temporary employment agency has been operating for at least three years before the application submission and has submitted a copy of the temporary assignment agreement between the temporary employment agency and the user employer to the Office if requested by the Office.</li> </ul> <p>For seasonal employment or intra-corporate transfer, the additional conditions for issuing a confirmation on the possibility of filling a vacant position, which includes consent to fill the position, are:</p>
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- The employer interested in hiring a third-country national, the user employer, or the host entity has fulfilled tax obligations, has paid advance contributions for public health insurance, social insurance, and mandatory contributions to pension savings, is not in bankruptcy, liquidation, or forced administration, does not have an installment plan, and does not have recorded unpaid employee claims arising from employment.
- No fine has been imposed within the five years preceding the application for failure to pay monetary compensation equivalent to the salary for the period that would have been due if the work permit had not been revoked.
- The employment contract or employer's commitment for employment complies with the law.
- For intra-corporate transfers, it is also required that the third-country national has a higher education degree and, within the framework of the intra-corporate transfer, is undergoing professional training (internship) for professional growth or acquiring knowledge in business management or is performing a managerial or expert role that requires extraordinary professional knowledge, skills, abilities, qualifications, and experience necessary for the operation or management.

(3) The Office will issue a confirmation, which includes either approval or disapproval, within 15 working days from the date of receipt of the employer's application. If the employer has submitted an incomplete application for the issuance of the confirmation, the Office will request the employer to provide the missing information. In such a case, the time limit for issuing the confirmation begins after the complete application has been submitted.

[1] A "user employer" in this regard is a legal entity or an individual to whom an employer or a temporary employment agency, according to a specific regulation, temporarily assigns an employee in an employment relationship to perform work.

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			<p>3. No, posting a job vacancy on the EURES portal is voluntary.</p> <p>4. There are exceptions to the labor market test. The labor market test is not required in the following cases:</p> <ul style="list-style-type: none"><li>• A third-country national applying for temporary residence - EU Blue Card.</li><li>• A third-country national who will perform continuous educational or scientific activities in the Slovak Republic as a teaching staff member, a university teacher, a researcher, or an artist at a higher education institution, or as a research or development employee in research activities.</li><li>• A third-country national with higher education who, within the framework of an intra-corporate transfer, is undergoing professional training (internship) for professional growth or acquiring knowledge in business management, or a third-country national who, within the framework of an intra-corporate transfer, performs a managerial role or a specialist role requiring extraordinary professional knowledge, skills, abilities, qualifications, and experience essential for the operation or management.</li><li>• Confirmation on the possibility of filling a vacant position issued for the purpose of renewing temporary residence for the same job.</li><li>• Confirmation on the possibility of filling a vacant position issued for the purpose of granting temporary residence for employment to a third-country national who has been granted a national visa in the interest of the Slovak Republic and who will be employed in the same job.</li><li>• Confirmation on the possibility of filling a vacant position issued for the purpose of granting temporary residence for employment to a third-country national who has been granted temporary protection, who has been employed in the Slovak Republic for at least six months, and who will be employed in the same job.</li></ul>
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			<ul style="list-style-type: none"><li>• Employment in a labor shortage occupation by a third-country national in a region with a labor shortage and by an employer who, as of the date of the application, employs less than 45% of third-country nationals out of the total number of employees, provided that employees with an employment contract of at least half of the standard weekly working hours are included in the total number of employees.</li><li>• A third-country national who has applied for an extension of the employment permit for the same job, or if it is stipulated by an international treaty binding on the Slovak Republic.</li></ul> <p>4.a) The aim of introducing exceptions to the labor market test is to attract highly qualified workers from third countries and to stabilize the workforce from third countries in professions that employers are unable to fill with domestic labor.</p> <p>4.b) See response to question 4.a).</p> <p>4.c) Yes, the labor market test is also not required in cases where a third-country national is employed in a labor shortage occupation in a region with a labor shortage, and the employer, as of the date of the application, employs less than 45% third-country nationals out of the total number of employees. This total includes employees with an employment contract of at least half of the standard weekly working hours.</p> <p>The identification of labor shortage occupations in regions for each calendar quarter and the publication of the list of these occupations on its website by the end of the calendar month immediately following the relevant calendar quarter falls under the responsibility of the Central Office of Labor, Social Affairs, and Family.</p> <p>5.</p>
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			<ul style="list-style-type: none"><li>• The job description is overly specific, limiting the pool of potential domestic or EU candidates - YES – especially in cases of language requirements.</li><li>• The job vacancy is filled by a national, EU citizen, or legally staying third-country national before the LMT period concludes - YES</li><li>• A worker referred by the PES is willing to accept the job - YES</li><li>• The employer unjustifiably rejects a jobseeker who meets all the job requirements - YES</li><li>• The PES issues a negative decision based on data indicating a sufficient number of qualified jobseekers available to fill the vacancy – YES</li><li>• Other criteria (please specify) – e.g.<ul style="list-style-type: none"><li>• The employer has been fined for violating the prohibition of illegal employment within the five years preceding the application submission.</li><li>• In the case of seasonal employment and intra-corporate transfers, the employer's compliance with social insurance, health insurance, and tax obligations will be verified.</li></ul></li></ul> <p>6. These data are not monitored in the Slovak Republic.</p> <p>7. New categories of employment have been established where the labor market test is not required. These include:</p> <ul style="list-style-type: none"><li>• Continuation in the same job during the renewal of temporary residence.</li><li>• Continuation in the same job by a holder of a visa granted in the interest of the Slovak Republic.</li><li>• Continuation in the same job by a third-country national with granted temporary protection.</li></ul>
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 <p><b>EMN NCP Slovenia</b></p>	<p><b>Yes</b></p>	<p>1. Yes.</p> <p>2. The LMT procedure is regulated by article 9 of the Employment, Self-Employment and Work of Foreigners Act (ZZSDT): <i>Under the article 9 of ZZSDT, prior to submitting an application for a single permit, an EU Blue Card, a written authorisation or a seasonal worker permit, employers may obtain a depersonalised notice from the Employment Service indicating whether there are any suitable unemployed persons registered. Employers shall obtain the notice referred to in the preceding paragraph on the basis of a job vacancy notice submitted to the Employment Service. The Employment Service shall provide the notice referred to in the preceding paragraph to the employer within five working days of receipt of a job vacancy notice. The Employment Service's notice indicating that no suitable unemployed persons are registered shall be deemed evidence of compliance with the conditions specified in point 1 of paragraph one of Article 17, point 1 of paragraph one of Article 29 and point 3 of paragraph one of Article 30 of this Act, provided that the application for a single permit, an EU Blue Card, a written authorisation or a seasonal worker permit is submitted within 30 days of the issuance of the notice. In most cases, employers apply for the LMT before starting/continuing the process of employing a foreigner, since it is cost-free and a negative decision would result in a later unsuccessful application for the single permit.</i></p> <p>Upon receiving a special job vacancy (for LMT, so called "PDM-KTD" form), ESS uses an IT tool (also used for job matching) to screen the availability of suitable unemployed persons for the job in the ESS registry, complemented by the individual professional appraisal by the counsellor.</p> <p>The LMT is usually executed by counsellors from the Offices for employers (specialized units of the Employment Service of Slovenia</p>
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			<p>- ESS), who are responsible for the employer in the area, where the work place will be located. They are professionals with the best knowledge of the situation in the local LM. They are also aware of the past cooperation with the employer involved.</p> <p>The LMT is usually performed in only a couple of days, which is even faster than required by law (5 working days). A notification, which is valid for 30 days, is issued by the ESS and sent to the employer. In these 30 days an employer has to start the procedure of employing a foreigner.</p> <p>A special kind of job vacancy is used to request the LMT from the ESS (usually submitted through a government or ESS eServices). You may use a web translate tool to look at the whole information for employers on the ESS web page: <a href="https://www.ess.gov.si/delodajalci/zaposlovanje-tujcev-iz-tretjih-drzav/kontrola-trga-dela/">https://www.ess.gov.si/delodajalci/zaposlovanje-tujcev-iz-tretjih-drzav/kontrola-trga-dela/</a>.</p> <p>3.</p> <p>No, ESS does not check the availability of workers from other EU Member States during the LMT process. ESS only checks the availability of the EU nationals, registered as unemployed with ESS. Workers from other EU Member States are not a large source of labour for the Slovenian labour market, when compared to workers, coming from the non-EU countries. All job vacancies, published by ESS, are also transferred to the EURES portal (in most cases the employer applies for LMT after unsuccessfully searching for candidates with ESS).</p> <p>4.</p> <p>LMTs are generally applied for all new employments of workers from non-EU/EEA/Switzerland countries. On the other hand, there are some exemptions:</p> <ul style="list-style-type: none"><li>• In certain occupations. Employment in some of the occupations performed by foreigners (according to the Standard Classification of Occupations 2008) does not depend on the situation on the labor market. Therefore, they do not require LMT. This means that in the process of issuing a permit or written approval, ESS gives consent to the employment, without</li></ul>
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		<p>determining the fulfilment of the condition that there are no suitable unemployed persons in the register of unemployed persons.</p> <p>At the moment, there are 17 listed professions, where employers can recruit no more than 100 foreigners per calendar year without LMT. The “Order on the determination of occupations in which the employment of a foreign national is not linked to the labour market” is reviewed twice per year.</p> <p>Till 30 August 2024, there has been a similar order, defining occupations and activities, where LMT was not required, to help with the restoration after the flooding in Slovenia in 2023.</p> <ul style="list-style-type: none"> <li>• LMT is not required for certain categories of foreigners:</li> <li>• those who have free access to the labour market (e.g. those who already have residence and work permit based on the consent for employment, self-employment or work, citizens of Bosnia and Herzegovina and Serbia who have work permits after one year from their first employment in the Republic of Slovenia, foreigners residing in the Republic of Slovenia on the basis of a temporary residence permit for family reunification with a Slovenian citizen, foreigners residing in the Republic of Slovenia on the basis of a temporary residence permit issued to foreigners of Slovenian origin, foreigners residing in the Republic of Slovenia on the basis of a temporary residence permit issued to victims of trafficking in human beings, ... )</li> <li>• in cases of permit renewals (the same employer and the same occupation),</li> <li>• in cases of specific permits (seasonal work in agriculture, self-employment, ...).</li> </ul> <p>5.</p> <ul style="list-style-type: none"> <li>• <b>The job description is overly specific, limiting the pool of potential domestic or EU candidates. YES/NOYES.</b> That is why the LMT is not performed “automatically” only using an IT tool, but it also requires an individual and professional screening and decision by the counsellor of the ESS.</li> </ul> <p>The ESS is aware of the practices used to limit the pool of potential candidates. Employers are n</p>
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		<p>ot successful in the LMT, if they are requesting additional conditions, not linked to the requirements of the job position (language skills, specific education and similar).</p> <ul style="list-style-type: none"> <li>• <b>The job vacancy is filled by a national, EU citizen, or legally staying third-country national before the LMT period concludes. YES/NO NO.</b> The job vacancy for acquiring LMT is not the same as a JV for ordering a publication and referral of candidates by the ESS (so it cannot be “filled”). This has been done in order to limit the pressure on the ESS when executing the LMT. In the past, it was the same job vacancy and the employers pressured the ESS to give a “green light” or “find a candidate” in 5 working days.</li> <li>• <b>A worker referred by the PES is willing to accept the job. YES/NO + The employer unjustifiably rejects a jobseeker who meets all the job requirements. YES/NO •YES.</b> When executing the LMT, ESS is aware of the past cooperation with the employer – and considers the fact, that referred unemployed did not want to take the offered job or whether the employer unjustifiably rejected them.</li> <li>• <b>The PES issues a negative decision based on data indicating a sufficient number of qualified jobseekers available to fill the vacancy. YES/NOYES,</b> this is the main criteria.</li> </ul> <p>6. We would like to point out that the data shown is followed by the ESS and it is not collected as an official statistic. In 2023, ESS executed LMT for approximately 51.000 open job positions. There were 19,1 % negative decisions (not allowing the employment of foreign nationals), 53,4 % of positive decisions (because there is a huge labour shortage in Slovenia and foreign nationals are usefully employed in shortage occupations). In 27,5 % of cases it was determined that the LMT is not needed (e.g. the occupation is listed in the “Order on the determination of occupations in which the employment of a foreign national is not linked to the labour market”).</p>
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			<p>7.</p> <p>The LMT process is not problematic. It is a fast procedure, compared to the whole procedure of employing from the non-EU countries.</p> <p>On one hand, it takes up valuable HR resources from the ESS to be executed properly, since it requires a combination of IT and in- person professional examination. On the other hand, it offers ESS the possibility to search for employment possibilities for groups who are further away from the labour market.</p>
	<b>EMN NCP Spain</b>	<b>Yes</b>	<p>1.</p> <p>In Spain a strictly stated “labour market test” is not applied. It is studied whether the “national employment situation” (NES) allows the hiring of a foreign worker, national of a third country and non-resident in Spain, and its consequent entry, and the issuance of the corresponding authorisation of residence and work. In some cases, as will be seen in the following point, the Public Employment Service may have to issue a certificate to certify that the NES allows recruitment, but highlights, when it comes to certifying whether or not the NES allows recruitment if the employment for which it is intended to be hired is within the “Catalogue of occupations of difficult coverage”, this without having the exceptions to the requirement of the NES. Of all this is discussed in more detail in the answer below.</p> <p>2.</p> <p>To be authorised to enter, reside, and work in Spain, a TCN worker must meet some conditions, among them that the NES allows it.</p> <p>The NES allows the recruitment of a non-resident foreign national, if found in any of the following situations:</p> <ul style="list-style-type: none"> <li>• When the occupation is included in the catalogue of occupations that are difficult to fill published by the Public Employment Service on a quarterly basis.</li> </ul>

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		<p>In occupations not classified as difficult to fill when the employer proves to the Immigration Office that it is difficult to fill the vacant positions with workers already incorporated in the internal labour market. For these purposes, the Immigration Office will take into consideration the report submitted by the competent Public Employment Services on the insufficiency of job seekers to fill the position and the job offer presented, as well as the urgency of the contract proven by the company, if applicable.</p> <ul style="list-style-type: none"> <li>• When the contract is aimed at nationals of States with which Spain has signed International Agreements (Chile and Peru).</li> <li>• When it is a case covered by article 40 of Organic Law 4/2000.</li> </ul> <p>They are the following:</p> <ul style="list-style-type: none"> <li>- Reunited family members of working age or the spouse or child of a foreigner resident in Spain with a renewed authorization, or the child of a naturalized Spaniard, or a citizen of the European Union who has been residing in Spain for at least one year. The following must be provided: <ul style="list-style-type: none"> <li><input type="checkbox"/> Marriage certificate, if the spouse, or birth certificate, if the child.</li> <li><input type="checkbox"/> TIE, DNI or Certificate of Registration of the family member who confers the preference.</li> </ul> </li> <li>• Worker necessary for the assembly due to the renovation of a facility or production equipment.</li> <li>- It is accredited with a certificate from the company.</li> <li>• Foreigner who had enjoyed refugee status during the year following the cessation of the application of the Geneva Convention, or who had been recognized as stateless in the year following the termination of the status.</li> <li>- It is accredited by presenting a certificate from the competent body accrediting the date of extinction as a refugee or stateless person.</li> <li>• Foreigners who have Spanish nationality ascendants or descendants in their care.</li> </ul> <p>The following must be provided:</p> <ul style="list-style-type: none"> <li>- Certificate accrediting kinship.</li> <li>- Documentation proving that you are in charge (in the case of ascendants or descendants over 18 years of age).</li> <li>• Being the son or grandson of a Spanish person of origin.</li> </ul>
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		<p>The following must be provided:</p> <ul style="list-style-type: none"> <li>- Documentation proving the relationship.</li> <li>- Documentation proving that the father/mother or grandparent is Spanish of origin.</li> <li>• Worker who has held work permits for seasonal activities for two calendar years and has returned to the country of origin.</li> <li>- A certificate from the Spanish Consulate in the country of origin proving the corresponding returns must be provided.</li> <li>• Worker who has renounced the residence and work permit under a voluntary return program once the non-return period has elapsed.</li> <li>• Covering positions of trust and company executives. These are workers who only carry out senior management activities based on mutual trust and who legally represent the company or have a general power of attorney issued in their favor.</li> <li>- A certificate from the company and, where applicable, a general power of attorney must be provided.</li> <li>• A worker who is hired based on the procedure to authorize the entry, residence and work in Spain of foreigners whose professional activity involves reasons of economic, social or labor interest or whose purpose is to carry out research or development work or teaching, which requires high qualification, or artistic performances of special cultural interest.</li> <li>• Workers on the payroll of a company or group of companies in another country who intend to carry out their work for the same company or group in Spain, provided that it is proven that the worker's activity requires direct and reliable knowledge of the company.</li> <li>• Documentation proving that the worker belongs to the company and the activity that the worker is going to carry out must be provided.</li> </ul> <p>The duration and processing time vary depending on the case.</p> <p>3.</p>
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		<p>No. The search for potential workers who can fill the job is carried out by the Public Employment Service only in its databases, without regard to the nationality of the persons registered there.</p> <p>4. Yes. There is a catalogue of occupations that are difficult to fill published by the Public Employment Service on a quarterly basis and other exemptions. See answer to question 2.</p> <p>4.a) If it applies to specific categories, please describe the rationale behind. The catalogue of occupations of difficult coverage contains those professions whose job offers are more difficult to manage to fill vacancies. The presence of an occupation in the catalogue of the geographic area concerned, implies, for the employer, the possibility of processing the authorization to reside and work addressed to a foreign worker.</p> <p>4.b) If there are exemptions for specific categories, please describe the rationale behind and describe the process for reviewing such exemptions and how often these are revised. See answer to question 2.</p> <p>4.c) If there is a link with the labour shortages list, please describe briefly how it is established, at what level (national, regional, municipal), whether it is regularly updated and how it impacts on the LMT). The catalogue is prepared for each province, islands in the case of the island provinces and autonomous towns and Melilla Ceuta. Has a quarterly, extending its effect from the first to the last working day of the calendar quarter following its publication.</p>
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		<p><a href="https://www.sepe.es/dam/jcr:7a7ee1d5-431d-480f-af79-35a317d030e9/catalogo_ocupaciones_dificil_cobertura_2T_2024.pdf">https://www.sepe.es/dam/jcr:7a7ee1d5-431d-480f-af79-35a317d030e9/catalogo_ocupaciones_dificil_cobertura_2T_2024.pdf</a></p> <p>5.</p> <ul style="list-style-type: none"> <li>• The job description is overly specific, limiting the pool of potential domestic or EU candidates. YES/NO YES. In occupations not classified as difficult to fill when the employer proves to the Immigration Office that it is difficult to fill the vacant positions with workers already incorporated in the internal labour market, the Immigration Office will take into consideration the report submitted by the competent Public Employment Services on the insufficiency of job seekers to fill the position and the job offer presented, as well as the urgency of the contract proven by the company, if applicable. In order to issue this report, Public Employment Services have to check details such as the one mentioned in this question.</li> <li>• The job vacancy is filled by a national, EU citizen, or legally staying third-country national before the LMT period concludes. YES/NO Yes, if the position is finally filled by a national, EU citizen, or legally staying third-country national, it would not be possible to prove the impossibility of filling the job offer.</li> <li>• A worker referred by the PES is willing to accept the job. YES/NO Yes, if the position is finally filled by a national, EU citizen, or legally staying third-country national, it would not be possible to prove the impossibility of filling the job offer.</li> <li>• The employer unjustifiably rejects a jobseeker who meets all the job requirements. YES/NO Yes, if the position can be by a jobseeker who meets all the job requirements, it would not be possible to prove the impossibility of filling the job offer.</li> <li>• The PES issues a negative decision based on data indicating a sufficient number of qualified jobseekers available to fill the vacancy. YES/NO</li> </ul>
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			<p>Yes, if the position is finally filled by a national, EU citizen, or legally staying third-country national, it would not be possible to prove the impossibility of filling the job offer.</p> <p>6. -</p> <p>7. The aim is to improve the functioning of the catalogue. In the meantime, efforts are being made to facilitate the ways of contracting a TNC in the field of immigration.</p>
	EMN NCP Sweden	Yes	<p>1. NO</p> <p>In principle everyone that has received an employment, which has been announced nationally and on EU-level and that fulfills the normal requirements regarding salary and working conditions, is entitled to work and residence permit. Specific regulations are in effect for certain occupations and citizens of certain countries. Within certain industries, more stringent requirements can be placed on the employer. In 2022 an expert committee was appointed by the government in order to explore the possibilities to introduce labour market test. In 2023 this assignment was withdrawn and changed into an enquiry of how legislation can be reformed in order to ensure that work permit will only be granted if the employee has a certain minimum wage and if this minimum wage should be lower for certain professions. The committee should also look into if certain trades can be excluded from the possibility of being granted a work permit and suggest means to increase immigration of highly qualified workers. The committee published its report in the beginning of 2024 but so far no changes of the legislation has been decided or implemented.</p>

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			2. NA
			3. NA
			4. NA
			5. NA
			6. NA
			7. NA

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