

## **VISA POLICY AS MIGRATION CHANNEL IN [(MEMBER) STATE NAME]**

### ***Executive Summary (up to two pages)***

The Executive Summary should summarise the report, focussing on key findings and messages that you consider are of most relevance to policymakers. It may be organised according to the main Sections of your National Report, or differently, to better meet the information needs of your policymakers.

### **1. INTRODUCTION: PURPOSE AND METHODOLOGY FOLLOWED (3-4 pages)**

State the purpose of the study, as listed in this document, plus any specific ones established at national level. This is primarily for the benefit of those readers who will see only the National Report. Where possible, indicate who is likely to find the report most useful, and for what purpose, in your (Member) State.

#### **1.1 Methodology**

With regard to methodology, explain how your National Report was produced and who has contributed to the study. Explain also how your National Report would add to/complement the information already available (published). In particular, information on the following should be provided:

- the methods used in identifying and selecting sources of data, databases used and criteria followed (such as data/research quality) for including a source;
- an overview of the type and sources of information used, including existing studies;
- which, if any, organisations/institutions have been contacted to obtain the relevant information;
- what problems were encountered in doing the study;
- whether some aspects (or statistics) could not be addressed (or provided) in accordance with these specifications (if alternative information is provided, outline how it should be interpreted with relation to what is requested in these specifications);
- whether there are reservations/caveats one should apply to any of the findings and, if so, how.

#### **1.2 Definitions**

To the extent possible, use terms which are in accordance with their definition given in the EMN Glossary, as provided in Section I.f) above. If this is not possible, describe here the terms you use, along with their definition. If considered necessary to improve understanding, outline here also what is understood as "visa policy" in your (Member) State.

## **2. POLICY AND LEGAL FRAMEWORK FOR THE GRANTING OF VISA IN [(MEMBER) STATE](6 – 8 pages)**

This Section is intended to provide an overview of your (Member) States' policy and legal framework for the granting of visas.<sup>1</sup>

Note that the intention is not to describe migration policy or admission procedures,<sup>2</sup> but to focus on the **national** policy and legislation concerning the issuance of visas.

### **2.1 National Policy and legislative framework**

- a) Does your national government have a “general” vision on the (possible) (future) role of national visas in promoting legal migration and preventing irregular migration?
- b) What is the national visa policy in your (Member) State? Provide an overview of your (Member) State's national policy (including planned developments) in relation to the granting, or non-granting, of visas for different purposes, such as employment, education, family reunification, humanitarian.
- c) Please provide a general overview of the overall legal framework in your Member State in relation to the granting, or non-granting, of visas, in particular of national (Type D) **ones** for different purposes. In what way does your national visa policy ensure that third-country nationals admitted under the EU legal migration directives are granted “*every facility for obtaining the requisite visa*”?
- d) Does your national visa policy include an explicit link to migration policy in particular relating to:
  - Legal immigration? If so, is any specific focus placed on certain third countries and/or any specific categories of third-country nationals (e.g. highly-skilled)?
  - Irregular migration? If so, is any specific focus placed on certain third countries, any specific visa types (e.g. Type D) and/or any specific categories of third-country nationals (e.g. students who may potentially abuse student visas in order to stay for other purposes)?
- e) Does your national legislation in relation to the granting, or non-granting, of visas include an explicit link to migration legislation in particular relating to:
  - Legal immigration? If so, what is the specific focus of these (visa types, categories)?
  - Irregular migration? If so, what is the specific focus of these (visa types, categories)?

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<sup>1</sup> For Ireland and the United Kingdom, the national policy and legislative framework for short-stay visas should also be examined in Sections 2.1 and 2.2 of the National Report. Depending on the possible issuance of non-Schengen short stay visas in Cyprus, Bulgaria, Romania and Norway, national policy and legislation for short-stay visas might need to be examined in Sections 2.1 and 2.2

<sup>2</sup> For this, reference can be made to the “*Organisation of Asylum and Migration Policies in the EU Member States*” study, available from: [http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?entryTitle=06\\_The%20ORGANISATION%20OF%20Asylum%20and%20Migration%20POLICIES%20in%20the%20EU%20Member%20States](http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?entryTitle=06_The%20ORGANISATION%20OF%20Asylum%20and%20Migration%20POLICIES%20in%20the%20EU%20Member%20States)

## 2.2 Agreements with third countries

- a) Are visa facilitation agreements and exemptions in place in your (Member) State?<sup>3</sup> If so, with which third countries?
- b) Are any other bilateral/multilateral agreements in place in your (Member) State with respect to visas? If so, with which third countries?
- c) What are the purposes of the facilitation agreements and other bilateral/multilateral agreements? Do these agreements have a specific focus on the facilitation of legal migration and/or the prevention of irregular migration?

## 2.3 Recent changes to Visa Policy and Legislation within context of a common EU dimension

*Note: This Section wishes to examine the changes occurring in your (Member) State due to the common EU dimension in visa and migration policy and legislation. Please list here the key changes and considerations, whether they were drastic or not. The effects of these changes will be examined in Section 5 below.*

- a) What, if any, changes have occurred in your (Member) State in relation to EU visa policy, legislation (e.g. VIS, Visa Code, Schengen) and visa exemptions? Have there been any significant changes due to the adoption of the common approach?
- b) Has other EU policy and legislation caused any changes to your national visa policy?<sup>4</sup> Please clarify to which extent visa policy complements the regulation of residence permits as provided for under Directives 2009/50/EC, 2005/71/EC and 2004/114/EC. These Directives set up harmonised conditions of admission for the third-country national falling under their scope; in this context, what is the purpose of a visa policy and what are the links between the requirements for the issuance of visas and of the residence permits? How is the commitment to grant third-country nationals, admitted under the EU legal migration directives, “every facility for obtaining the requisite visa”<sup>5</sup> implemented in practice?
- c) If relevant, please also note the approaches and procedures which your (Member) State chose to take regarding procedures relating to non-harmonised aspects of the common EU Visa Policy, e.g. the issuing of invitations, motivations for refusing appeals, etc. For example, with regard to some (Member) States use of forms of sponsorship and/or invitations (to be validated by national authorities) and motivation of refusal of a Visa and the right of appeal of such negative decisions. The latter provisions become mandatory from 5<sup>th</sup> April 2011 but your (Member) State may have already anticipated implementation.

## 2.4 Recent changes to Visa Policy and Legislation relating to national visas

What, if any, other recent changes have occurred to your Member State’s visa policy and/or legislation relating to national visas?

- (i) Have these changes been made to reflect a greater or lesser focus on facilitating legal migration?

<sup>3</sup> In the case of non-Schengen Member States, visa facilitation agreements and exemptions may also related to short-stay visas

<sup>4</sup> This relates only to national (e.g. Type D) visas and not to short-stay Schengen visas

<sup>5</sup> See, for example, Article 7(1) of Directive 2009/50/EC

- (ii) Have these changes been made to reflect a greater or lesser focus on preventing irregular migration?

### **3. PRACTICAL IMPLEMENTATION AND ORGANISATION (10 – 15 pages)**

This Section shall cover the practical implementation and organisation of visa policy and legislation during the three main stages of the **national** visa procedure (**including** Type D visas). This section by no means wishes to examine the immigration conditions of your (Member) State, but rather identify the key elements examined during the stages of the visa process, without describing, for example, *how* these are examined.

For Ireland and the United Kingdom, this Section shall cover the practical implementation and organisation of visa policy and legislation during the three main stages of the visa procedure for all types of visas (short/medium/long term). Depending on the national practices relating to short-stay visas, Bulgaria, Romania, Cyprus and Norway might describe the three main stages of the visa procedure for *all* types of visas, if relevant.

Also, when discussing other measures to prevent irregular migration under Section 3.3 below, the information to be provided may cover both short-stay Schengen visas and national (Type D) visas.

#### **3.1 General procedure followed in the Stages of the Visa Procedure**

Please provide an overview of the general procedure followed during the three main stages of the visa (**including** Type D) issuing procedure<sup>6</sup>:

a) Application Stage

Please consider the following elements when describing the general procedure followed in your (Member) State during the application stage: travel document requirements, presentation of birth certificate, payment of fees, proof of health insurance, financial sustainability and accommodation etc.

Please identify the authorities involved at the application stage (e.g. Ministry of Foreign Affairs, including embassies and consular posts, Ministry of Interior, External Service Provider etc.)

b) Examination Stage

Please consider the following elements when describing the general procedure followed in your (Member) State during the examination stage: verification of measures undertaken at application stage, undertaking of interviews, medical tests and security checks, biometric verification etc.

Please identify the authorities involved at the examination stage (e.g. Ministry of Foreign Affairs, Ministry of Interior, External Service Provider etc.)

Please describe the possibilities, if any, for appeal and judicial review at the examination stage.

c) Entry, Stay and Exit

Please consider the following elements when describing the general procedure followed in your (Member) State at entry and stay: Withdrawal of visas; Extension/transformation of visas; measures undertaken at borders, etc.

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<sup>6</sup> Annex 3 provides an overview of the full EU acquis in the area of visas.

Please identify the authorities involved at entry and stay (e.g. Ministry of Foreign Affairs, Ministry of Interior, External Service Provider, Border Guards, etc.)

Please describe the possibilities, if any, for appeal and judicial review at entry and stay.

Please also describe the general procedure followed and monitoring in your (Member) State with regard to exit.

### **3.2 Visa issuance for the purpose of legal immigration – specific procedure followed in the Stages of the Visa Procedure**

#### ***3.2.1 National Visa Practices for admission of third-country nationals***

For third-country nationals applying for any visas to legally stay in your (Member) State, please consider the following four scenarios below and confirm (i) whether (any of) these exist in your (Member) State; (ii) if so, for which admission purpose (e.g. employment, education, family reunification etc.) these exist and/or (iii) whether any alternative scenarios exist. If alternative scenarios exist in your (Member) State, please describe these scenarios in this Section of your National Report.

When selecting the scenario(s) which apply to your (Member) State and, for each, consider the extent to which the specific elements listed under the stages below will apply and will vary:

- (i) Application: Proof of language skills, requirements needed for employment/business (contract, proof of investment, employer liability, qualifications), requirements needed for family reunion (wedding certificate, proof of family ties), requirements for education (prior qualifications, registration with institute and payment of fees);
- (ii) Examination: Verification of measures undertaken at application stage, undertaking of contact with third parties (e.g. sponsor, spouse, educational institutes etc.), refusals and motivation;
- (iii) Entry and stay: Withdrawals (by the applicant or the authority), Requests for extension, requests for transformation of visa. Please also consider the procedures with regard to exit.

#### ***Scenario 1: The Visa is a prerequisite for obtaining a residence permit - residence permit application in country of origin***

A number of key assumptions have been identified to establish the existence of this scenario in your (Member) State:

- Visa conditions are checked in country of origin;
- Visa is a condition for admission to the (Member) State;
- Admission/residence conditions are checked in the country of origin (part of the visa issuing process) and possibly further upon arrival (part of the immigration process);
- Visa is medium to long term (> 3 months).

#### ***Scenario 2: The Visa is a prerequisite for obtaining a residence permit - residence permit application upon arrival in (Member) State***

## Specifications for EMN study on Visa Policy as Migration Channel

A number of key assumptions have been identified to establish the existence of this scenario in your (Member) State:

- Visa conditions are checked in country of origin;
- Visa is a condition for admission to the (Member) State;
- Admission/residence conditions are checked upon arrival (part of the immigration process);
- Visa is medium to long term (> 3 months).

**Scenario 3: A residence permit can be obtained directly in the country of origin**

A number of key assumptions have been identified to establish the existence of this scenario in your (Member) State:

- No visa requirements exists;
- Admission/residence conditions are checked in country of origin (part of the immigration process);
- Visa is medium to long term (> 3 months).

**Scenario 4: The Visa is a residence title in itself (i.e. No residence permit required)**

A number of key assumptions have been identified to establish the existence of this scenario in your (Member) State:

- Visa conditions are checked;
- Admission/residence conditions are checked in country of origin (part of the visa issuing process);
- Visa is medium to long term (> 3 months)
- No (further) residence permit required.

**3.2.2 Challenges and success factors for facilitating legal immigration**

With respect to facilitating legal immigration, have any specific challenges/success factors been identified through research, evaluation, monitoring, formal/political statements in your (Member) State in relation to:

- a) Visa facilitation agreements and other bilateral/multilateral agreements
- b) Visa representation;
- c) Other challenges/success factors in relation to visa issuing (e.g. costs, conditions).

**3.3 Visa procedures for the purpose of preventing irregular migration<sup>7</sup>**

**3.3.1 Prevention of irregular migration during visa issuing and monitoring process**

Please describe measures undertaken in your (Member) State which pay attention to the prevention of irregular migration during the three stages of the visa issuing and monitoring process:

- a) Application stage: Verification of clean criminal record, declaration of good will, proof of return ticket;
- b) Examination stage: Verification of documents **provided** at application stage, contact with other Member States, (e.g. prior visas refused), willingness to return to country of origin, risk assessment, refusals and motivation;
- c) Entry and stay: Withdrawals, monitoring of overstaying, requests for extensions, requests for transformation of the visa.

Please also consider in particular procedures and measures in place to monitor and ensure (timely) exit.

**3.3.2 Prevention of irregular migration through other measures during visa issuing**

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<sup>7</sup> This specifically addresses irregular migration in the context of visas (e.g. visa abuse) and complements the EMN Study on Irregular Migration which addresses other issues.

Please describe the measures in place in your (Member) State which aim to strengthen the capacity of staff dealing with visa applications and monitoring of visas and at which level these are implemented (i.e. central, regional, consular posts). Particular attention should be paid to capacity building measures to help staff identifying those individuals which may not have the intention to return. Please indicate whether the measures in place include the following:

- Development of Guidelines
- Training
- Development of Information Systems
- Development of Checklists
- Preparation and use of Country of Origin Information
- Presentation of (Member) State information, e.g. Statistics on third-country nationals apprehended, found to be illegally employed, found to be victims of trafficking
- Creation of “Black Lists”
- Document experts employed at consular posts
- Other measures, please elaborate.

### **3.3.3 Challenges and success factors for preventing irregular migration**

With respect to preventing irregular migration, have any specific challenges/success factors been identified through research, evaluation, monitoring, formal/political statements in your (Member) State in relation to:

- a) Visa waivers / exemptions for short stays (with third-country nationals staying beyond the maximum period and, for example, taking up work);
- b) Visa shopping;
- c) Visa facilitation agreements and other bilateral/multilateral agreements;
- d) Visa representation;
- e) Other challenges/success factors/needs in relation to visa issuing (e.g. costs, conditions).

## **4. CO-OPERATION WITH THIRD COUNTRIES: CASE STUDIES (8 – 10 pages)**

This section should provide information on two case studies undertaken. The selection criteria for the case studies should be the following:

- The case studies should be of particular relevance to the overall aim of the study, i.e. exploring the possible nexus between visa policy and migration management and control;
- The case studies should illustrate where visa policy has shown to be effective in facilitating legal migration and/or preventing irregular migration and/or how a Member State dealt with the unintended effects of their visa policy (or the effects of the policies implemented in another (Member) State/third country);<sup>8</sup>

When selecting the third countries for the case study, it must be ensured that trends can be identified from the available statistics.

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<sup>8</sup> For example, one of the case studies could illustrate developments only with regard to facilitating legal migration, whilst the other could focus on preventing irregular migration.



On the basis of these criteria, please provide, at the start of the study, your suggestions for case studies to the Advisory Group, so that the Advisory Group can assess the case study proposals and possibly, propose specific case studies to the EMN NCPs and/or suggest that some EMN NCPs share information or undertake a case study jointly.

#### **4.1 The facilitation of legal migration and/or prevention of irregular migration: Case Study I**

Please provide a description of the following in this section.

##### **4.1.1 Rationale for Case Study Selection**

The rationale for the selection of the case study should be identified, providing an overview of the (Member) State(s) interest in the third country listed.

The choice of case study might, for example, be related to the following: a change in national visa policy to facilitate the entry of legal migrants; a shift in numbers of third-country nationals applying for visas due to changes that occurred to national visa policy in another (neighbouring) Member State; changes due to the signature of visa waiver / exemptions and visa facilitation agreements at EU level, etc.

##### **4.1.2 Historical overview of relations with third country**

An historical overview of your (Member) State's relations with the third country should be provided, in the context of facilitating legal immigration and preventing irregular migration. A description should also be included on any other relevant "wider" political or legislative landmark developments which may have affected the relationship

##### **4.1.3 Existence of agreements with third country**

This section should provide an overview of any agreements (visa facilitation, bilateral, multilateral) which exist with the third country concerned, as well as providing the objectives for these agreements (i.e. concentration on the facilitation of legal migration/prevention of irregular migration, for example by placing a specific focus on certain "categories" of immigrants).

##### **4.1.4 Any other measures**

Please provide an overview of other measures, if any, in place between your (Member) State and the third country (e.g. pilot projects) and describe the focus of these additional measures.

##### **4.1.5 Statistics**

Please provide, where possible, the following statistics concerning the third country chosen for the case study:

- For the last 10 years (if feasible and relevant), data on visas (by type and, if possible, by category / purpose), extensions, transformations, withdrawal and refusal rates (including, if possible, by reason for withdrawal / refusal);
- For the last 10 years, immigration by age and sex;
- For the last 10 years, data on residence permits granted (by purpose) to these third-country nationals, changes to immigration status and withdrawal and refusal rates (including, if possible, by reason for withdrawal / refusal);
- For the last 10 years, stock of the third-country nationals living in the Member State;
- For the last 10 years, numbers of the third-country nationals refused entry (including the reasons, e.g. no valid visa, false visa, etc), apprehended and returned.

#### **4.1.6 Findings of Case Study I**

Please identify the effects of any agreements and other measures on the immigration and emigration (flows and stock) of third-country nationals from the case study country, by describing the situation before and after these were implemented. Please add any other evidence, e.g. emerging from evaluations or political statements, relevant to the Case Study.

#### **4.2 The facilitation of legal migration and/or prevention of irregular migration: Case Study II**

Case Study II should follow the same structure as Case Study I above.

### **5. EFFECTS OF EU POLICY AND LEGISLATION (3 – 4 pages)**

This section should present, address and analyse the effects, consequences and describe the lessons learned from any of the aspects and changes to relevant EU policy and legislation in your (Member) State. Annex 3 provides an overview of the EU acquis with regard to visa policy and relevant legal migration which will accompany the Study Specifications. The focus of this section should thus be on the effects of implementation of this acquis at national level. Where possible, please base your answers on existing research, evaluations, monitoring, formal/political statements in your (Member) State.

In this section, the following questions should be answered:

- a) What has been the overall impact of EU visa policy and legislation on your (Member) State? Please focus on the effects of the above in relation to facilitating legal migration and preventing irregular migration;
- b) What has been the overall impact of EU migration policy and legislation on visa policy and the issuing of visas in your (Member) State? Please focus on the implementation of the EU Directives on legal migration, which require the Member States to grant every facility to obtain the requisite visa to third-country nationals who apply for residence permits under them and satisfy the conditions;
- c) Have the following specific instruments had an effect on your (Member) State's legislation and/or policy and practices:
  - EU visa facilitation agreements;
  - Lifting of visa requirements with particular third countries, including, among others, the impact of amendments to Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirements;<sup>9</sup>
  - The Visa Information System (VIS);
  - The Visa Code (Regulation (EC) No 810/2009) and the common consular instructions;
  - Regulation no 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the convention implementing the Schengen agreement and Regulation No 562/2006 as regards movement of persons with a long-stay visa.

Whilst it will not be possible to fully assess the impact of those instruments which

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<sup>9</sup> For example, the recent lifting of visa obligations from some Balkan States, see <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1852> and related EMN Ad-Hoc Query.

have been introduced recently, please describe the situation before, and just after, the entry into force of these instruments.

- d) Please refer also to national discussions and political debate on current and future visa policies e.g. regarding (commenced or foreseen) visa dialogues with Third Countries or particular measures planned in your (Member) State.

## **6. DATA AND EMPIRICAL EVIDENCE ON VISAS ISSUED BY AND IMMIGRATION TO [(MEMBER) STATE]**<sup>10</sup>

As outlined in Chapter IV above which provides an overview of statistics available in (Member) States, please provide, to the extent possible, the following:

- a) Statistics<sup>11</sup> on visas issued by consular posts and at national borders for the years 2001-2010, disaggregated by:

- Type of visa (i.e., A, B,<sup>12</sup> C and D);
- Category of visa (mainly D) if possible, (e.g. for the purpose of employment education, etc);
- Country of consular post;
- Citizenship of applicant, and if possible, gender and age group;
- Withdrawn and rejected visa applications

- b) For comparison, please provide statistics for the according years (2001-2010) on flows of third-country nationals to your Member State, disaggregated by:

- Purpose of stay (applied and rejected), including international protection, residence permits for the purpose of employment, education, family reasons etc);
- Refused entry at external borders due to absence of valid visa, presentation of false visa or overstaying;
- Apprehended/found to be illegally present in the Member State territory;<sup>13</sup>
- Country of citizenship;
- Country of previous residence.

If possible, please identify any links between the numbers / trends in migration inflows of third-country nationals and the implementation of specific EU and/or national policy / agreements / measures in relation to visa issuing (e.g. the conclusion of visa facilitation agreements, the lifting of visa requirements, etc).

## **7. CONCLUSIONS**

This Section should present an analysis of the following:

<sup>10</sup> See also the introduction to Section II, data is to be provided where possible by the EMN NCP, also depending on the date of Accession to the EU of the Member State concerned.

<sup>11</sup> As mentioned previously in Footnote 48, statistics from the European Council Secretariat are available at [http://register.consilium.europa.eu/servlet/driver?page=Result&lang=EN&ssf=DATE\\_DOCUMENT+DESC&fc=REGAISEN&srm=25&md=400&typ=Simple&cmsid=638&ff\\_TITRE=statistical+information+on+uniform+visas&ff\\_FT\\_TEXT=&ff\\_SOUS\\_COTE\\_MATIERE=VISA&dd\\_DATE\\_REUNION](http://register.consilium.europa.eu/servlet/driver?page=Result&lang=EN&ssf=DATE_DOCUMENT+DESC&fc=REGAISEN&srm=25&md=400&typ=Simple&cmsid=638&ff_TITRE=statistical+information+on+uniform+visas&ff_FT_TEXT=&ff_SOUS_COTE_MATIERE=VISA&dd_DATE_REUNION).

<sup>12</sup> B (transit) visas have been included in the statistical overview since they might be of assistance in the context of preventing irregular migration in cases where third-country nationals disappear when in transit. These statistics will only be available until April 2010 following the coming into force of the Visa Code.

<sup>13</sup> These statistics are included in order to place visa statistics in context.

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- a) To what extent is there considered to be a nexus between visa policy and migration management policy in your (Member) State? What statistical and other evidence has been found to support this?
- b) To what extent does visa policy contribute to facilitating legal immigration? What successful policy, legislative and other measures have been used by your (Member) State in this regard?
- c) To what extent does visa policy prevent irregular migration? What successful policy, legislative and other measures have been used by your (Member) State in this regard?

### **ANNEX(ES)**

1. *Available Compilations of previous related EMN Ad-Hoc queries (in IES)*
2. *Bibliography of information sources*
3. *EU acquis*
4. *Statistical Tables (provided in Excel)*

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