

# INTRA EU MOBILITY OF THIRD-COUNTRY NATIONALS: IRELAND

## EMN Focussed Study 3

Emma Quinn

*March 2013*

# EMN

European Migration Network



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Study completed by the Irish National Contact Point of the European Migration Network (EMN) which is financially supported by the European Union and the Irish Department of Justice and Equality. The EMN has been established via Council Decision 2008/381/EC.

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## The European Migration Network

The aim of the European Migration Network (EMN) is to provide up-to-date, objective, reliable and comparable information on migration and asylum at Member State and EU-level with a view to supporting policymaking and informing the general public.

The Irish National Contact Point of the European Migration Network, EMN Ireland, is located at the Economic and Social Research Institute (ESRI).

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## The Author

Emma Quinn is National Programme Coordinator of the Irish National Contact Point of the European Migration Network.

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## About this Report

This report is the third in a series of EMN focussed studies. The study, compiled according to commonly agreed specifications, provides an overview of the key issues and challenges that are apparent in relation to the intra-EU mobility of third-country nationals to and from Ireland. The availability of data is discussed and, where possible, data are provided.

The report consists of information provided primarily for the purpose of completing an overview Synthesis Report for the above-titled EMN Focussed Study. All reports are available at [www.emn.europa.eu](http://www.emn.europa.eu).

The views expressed in this report are those of the author and do not necessarily represent those of the Economic and Social Research Institute, the Irish Department of Justice and Equality or the European Commission Directorate-General Home Affairs.

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# Top-line 'Factsheet'

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Data sources which provide insights to the intra-EU mobility of third-country nationals to/from Ireland are limited. Those that do exist indicate low mobility. Census 2011 recorded that just 0.6 per cent of non-EU nationals usually resident in Ireland lived elsewhere in the EU27 one year previously, with 0.25 per cent living in the UK. Data on migration flows by origin/destination, broken down by nationality, are not published in Ireland. Due to data collection issues only a tentative estimation can be made of the percentage of first time work permits issued to workers who made their application while resident in another EEA country (6.5 per cent in 2012).<sup>1</sup>

Detailed figures on visa applications by current location of applicant are not readily available and were compiled by INIS for the purpose of this study, for 2010 only. These data indicate that 17 per cent of all visa applications (77,940) were made from within the EU. Indian nationals form the largest overall group among third-country nationals applying within the EU. London was the EU mission receiving the largest number of visa applications in 2010, followed by Berlin and Paris. Overall, the categories of visa applications with the largest percentage made within the EU were "visit" (21 per cent of applications for "visit" visas were made within the EU), "other" (20 per cent) and "conference" (19 per cent). Ireland and the UK share a Common Travel Area (CTA). Although the CTA applies to citizens of Ireland and the UK only, it may result in increased mobility of third-country nationals between the two states on an informal basis.

The intra-EU mobility of third-country national workers is an area that has received little policy attention in Ireland. The Irish immigration system does not actively facilitate the intra-EU mobility of third-country nationals, nor are there measures introduced specifically to restrict such mobility. Intra-EU mobility rights are provided for certain categories of third-country nationals within the EU *acquis* subject to the necessary conditions being met. However, Ireland has not exercised its opt-in to several EU Directives that are relevant in this regard: the Long-term Residents Directive, the Blue Card Directive and the Students Directive. A third-country national, who is resident in another Member State under the terms of one of these Directives, holds no advantage over a third-country national travelling to Ireland from outside the EU: each must meet the same immigration requirements. Ireland participates in the Researchers Directive but officials consulted for the study had no direct experience of such third-country nationals moving to Ireland from another Member State.

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<sup>1</sup> See Section 2.1.1 for more details on the limitations of these data.

In marginal cases an EU migration history may positively influence the decision of a visa deciding officer or an immigration officer at the border/in the state, but this would be on a case-by-case basis. Work experience or qualifications gained in the EU may help a non-EEA national secure a job offer. However they do not offer any direct advantage when applying for a work permit, because the state takes the role of licensing the arrangement between employer and non-EEA worker, without having close regard to such details.

A key feature of the Irish immigration system is that all non-EEA nationals whether they are visa-required or not, are subject to immigration controls upon arrival to Ireland (these are applied only intermittently on the land border shared with the UK). The immigration officer at port of entry has discretion to grant or refuse permission to enter in all situations governed solely by national legislation. The only exceptions relate to family members of Union citizens. Ireland does not have a pre-entry clearance system. Visa-required nationals may apply for a visa in advance; migrant workers who wish to work for longer than three months in the state, may apply for an employment permit. While the issuing of a valid visa or work permit indicates that the bearer will be granted permission to enter the state the documents do not guarantee such entry and third-country nationals may be refused permission to land for a range of reasons discussed below. It is likely that the lack of a pre-entry clearance system and resulting uncertainty discourages third-country national mobility to Ireland. In addition, the fact that Ireland lies outside the Schengen zone means that that it is more difficult for potential third-country migrants to visit Ireland, before committing to migrate.

# Section 1

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## The National Legislative Framework: Visas and Residence Permits

### INTRODUCTION

The current study is the Irish contribution to a scoping exercise on the key issues and challenges that arise in relation to the intra-EU mobility of third-country nationals in the EU and the scale of such migration. A similar report will be produced by each National Contact Point of the European Migration Network and a synthesis report will then be compiled. The study will concentrate on legal movements of third-country nationals for the purposes of work, for periods over three months. Third-country nationals travelling as tourists, other kinds of visitors, and EU citizens are not included in the scope of the study.

Every citizen of the European Union, in accordance with the Treaty establishing the European Union, has the right to move, work and reside freely within the territory of the Member States. These rights have been extended to other EEA states (i.e. Iceland, Liechtenstein and Norway) plus Switzerland. Intra-EU mobility rights are provided for certain categories of third-country nationals within the EU *acquis* subject to the necessary conditions being met. This study will describe first the rules and procedures applicable to third-country workers, who are covered by the EU *acquis*, moving to Ireland from within the EU. The situation for workers who fall outside the EU *acquis* will then be assessed. Only those national rules and procedures that are specific to mobile third-country nationals are identified. In Section 2 the availability of data on the intra-EU mobility of third-country nationals is discussed and existing data presented. Section 3 provides analysis of identified restrictions to intra-EU mobility of third-country nationals, i.e. additional provisions in the national legislation that may affect the decision of third-country nationals to settle in Ireland, even if they fulfil all the necessary conditions for acquiring a visa and/or residence permit. Conclusions are provided in Section 4.

A key feature of the Irish immigration system is that all non-EEA nationals, whether they are visa-required or not,<sup>2</sup> are subject to immigration controls upon arrival to Ireland. The immigration officer at port of entry has discretion to grant or refuse permission to enter in all situations governed solely by national legislation. Section 4 of the Immigration Act 2004, sets out the grounds on which

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<sup>2</sup> Visa exempt third countries are detailed in Schedule 1 of *S.I. No. 417 of Immigration Act 2004 (Visas) Order 2012*.

a person may be refused permission to enter the State, including if the immigration officer believes the person:

- Has insufficient funds to support the person plus dependants;
- Intends to take up employment without the relevant permit;
- Does not have a requisite visa;
- Does not have a valid passport;
- Intends to abuse the Common Travel Area (CTA);
- Intends to enter the State for reasons other than those expressed by the foreign national.

During 2012 provisional data show that 2,239 persons were refused entry at the Irish border.<sup>3</sup> The immigration officer may grant leave to enter and stay up to a maximum period of three months or, depending on the documentation presented, for a shorter period. The only exceptions to the discretion of the immigration officer relate to family members of Union citizens in which cases EU law prevails.

## METHODOLOGY AND DEFINITIONS

The study is compiled according to commonly agreed specifications and therefore contains a number of sections that are not relevant to the Irish case. Research involved interviews with officials from the Immigration Policy Unit and the Visa Section in the Irish Naturalisation and Immigration Service (INIS), within the Department of Justice and Equality (DJE).<sup>4</sup> Interviews with the Economic Migration Policy Unit of the Department of Jobs, Enterprise and Innovation (DJEI)<sup>5</sup> and the Skills and Labour Market Research Unit of FÁS were also conducted. Available administrative data were provided by INIS and DJEI and a special tabulation was produced by the Central Statistics Office using Census 2011 data. Partly due to the fact that intra-EU mobility is not high on the policy agenda, the potential for desk research was limited.

The following key terms are defined as follows: ‘third-country national’ refers to any person who is not a citizen of the European Union and who is not a person enjoying the Union right to freedom of movement. ‘Intra-EU Mobility’ refers to movements from one Member State to another Member State normally to stay for more than three months in the other Member State and principally for the purpose of work.<sup>6</sup> While the focus of the study is on intra-EU mobility, entitlements to free movement also extend to EEA and Swiss nationals, therefore the main groups discussed are EEA nationals and third-country nationals.

There are three main types of “authorisations” discussed in the current report:

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<sup>3</sup> Minister Alan Shatter. Answer to Parliamentary Question 22 January 2013. Figure excludes persons initially refused permission to land who were subsequently admitted having made a protection application.

<sup>4</sup> <http://www.inis.gov.ie/>.

<sup>5</sup> <http://www.djei.ie/index.htm>.

<sup>6</sup> Study specifications drawing on the EMN Glossary: [http://emn.ie/cat\\_search\\_detail.jsp?clog=1&itemID=370](http://emn.ie/cat_search_detail.jsp?clog=1&itemID=370).

- Visas: third-country nationals from certain countries need a valid Irish entry visa before arriving in the State. The Irish visa is a certificate placed on a migrant's passport or travel document to indicate that he or she is authorised to land in the State subject to any other conditions of landing being fulfilled.<sup>7</sup>
- Employment permits: In order to come to Ireland to work most non-EEA nationals must hold an employment permit. There are four types of employment permits: work permits, Green Card permits, spousal/dependant work permits and intra-company transfer permits.
- Immigration registrations: If a third-country national wishes to stay in Ireland for more than three months, he or she must register with An Garda Síochána (police). On registration, a third-country national will receive a Registration Certificate and a passport stamp which specifies the duration and the conditions of the associated permission to remain in Ireland. Registration certificates are treated as broadly equivalent to residence permits in the current report.

## **GROUPS OF THIRD-COUNTRY NATIONALS WHO ENJOY MOBILITY RIGHTS UNDER THE EU'S MIGRATION DIRECTIVES**

### **1.1 LONG-TERM RESIDENTS IN ANOTHER MEMBER STATE**

#### ***National rules and procedures which apply to third-country nationals who are long-term residents in another Member State in respect of their access to a visa and/or residence permit in Ireland***

Ireland does not participate in *Directive 2003/109/EC* of 25 November 2003 concerning the status of third-country nationals who are long-term residents. The national rules and procedures regarding visa and residence permits that apply to third-country nationals holding a long-term resident permit under the Directive, who wish to move to Ireland for the purposes of work, are the same as the national rules and procedures that apply to third-country nationals who migrate to Ireland from a third country for the first time. Similarly the rules and procedures regarding employment permits are the same for third-country nationals holding a long-term resident permit under the Directive, as for third-country nationals who migrate to Ireland from a third country for the first time.

Officials from the Irish Naturalisation and Immigration Service indicated that on occasion, when assessing a "marginal" application for a visa or residence permit, they may have regard to the fact that the applicant is already based in the EU. On a case-by-case basis this migration history may support the application. For example if an individual is already established in the UK then concerns about potential abuse of the Common Travel Area are reduced.

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<sup>7</sup> Visa exempt third countries are detailed in Schedule 1 of *S.I. No. 417 of Immigration Act 2004 (Visas) Order 2012*.

## 1.2 EU BLUE CARD HOLDERS

### *National rules and procedures which apply to third-country nationals who are EU Blue Card holders in another Member State in respect of their access to a visa and/or residence permit in Ireland*

Ireland does not participate in *Council Directive 2009/50/EC* of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.<sup>8</sup> The national rules and procedures, regarding visa, residence and employment permits, which apply to third-country nationals holding a Blue Card, who wish to move to Ireland for the purposes of work, are the same as the rules that apply to third-country nationals who migrate to Ireland from a third country for the first time.

As discussed in Section 1.1 officials from the Irish Naturalisation and Immigration Service may, on occasion, have regard to the fact that the applicant is already based in the EU when assessing a “marginal” application for a visa or residence permit.

## 1.3 RESEARCHERS

### *National rules and procedures which apply to third-country nationals who are resident in another EU Member State who wish to undertake work as a Researcher in Ireland*

Ireland participates in *Council Directive 2005/71/EC*.<sup>9</sup> The national rules and procedures regarding visa and residence permits that apply to third-country nationals in respect of whom a Hosting Agreement exists under the Directive, who wish to move to Ireland for the purposes of work, are the same as the national rules and procedures that apply to third-country nationals who migrate to Ireland from a third country for the first time.

Article 13 of the Directive provides that if the researcher stays only up to three months in the second Member State, the research may be carried out on the basis of the Hosting Agreement concluded in the first Member State. Officials from INIS consulted for the purposes of this study did not have experience of a researcher wishing to transfer from an institution in another EU Member State to Ireland.

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<sup>8</sup> The Department of Jobs, Trade and Innovation (DJEI) stated that the existing “Green Card” scheme in Ireland is used to meet labour market requirements where strategically important skills needs have been identified. Ireland did not opt into the Blue Card Directive, partly because the existing scheme is considered to be more adaptable to evolving circumstances particular to Ireland. DJEI also observed that having two schemes running in parallel would be confusing and administratively inefficient.

<sup>9</sup> Directive of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research.

## 1.4 STUDENTS

### ***National rules and procedures which apply to third-country nationals who are resident in another EU Member State who wish to undertake studies in Ireland***

Ireland does not participate in *Directive 2004/114/EC* of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service. The rules and procedures applicable to third-country nationals, who are students in another Member State, in respect of their access to a visa and/or residence permit in Ireland, are the same as those applied to any third-country national who migrates to Ireland from a third country for the first time.

As discussed in Section 1.1 officials from the Irish Naturalisation and Immigration Service may, on occasion, have regard to the fact that the applicant is already based in the EU when assessing a “marginal” application for a visa or residence permit.

## 1.5 POSTED WORKERS

### ***National rules and procedures which apply to third-country nationals who are resident in another EU Member State who are posted by a service provider for the purposes of cross-border provision of services in Ireland***

*Directive 96/71/EC* of 16 December 1996 concerning the posting of workers in the framework of the provision of services relates to workers who are “posted” by a service provider for the purposes of temporary cross-border provision of services. The Directive provides posted workers with certain minimum employment related rights but does not contain any specific provision for posted third-country nationals.

Third-country nationals from visa required countries, who are lawfully employed in another EU Member State and are coming to Ireland temporarily to provide services on behalf of their employer, may apply for a “Van der Elst” visa. The visas are named after the Van der Elst case (9 August, 1994), which found that a host Member State may not impose administrative formalities or additional conditions on posted workers who are third-country nationals, when they are lawfully employed by a service provider established in another Member State. INIS have stated that Van der Elst visas are generally granted on a priority basis with the minimum of formality or delay.

Due to the temporary nature of their posting, such cross-border workers do not require a work permit to work in Ireland. Only nationals of visa-required third countries must present a Van der Elst visa at the Irish border. Posted workers from non visa-required countries must present at the border with sufficient documentation to prove that they are lawfully employed in another EU Member

State and are coming to Ireland to provide temporary services on behalf of their employer.

## **GROUPS OF THIRD-COUNTRY NATIONALS WHO ARE NOT PROVIDED FOR BY THE EU ACQUIS**

### **1.6 CROSS BORDER WORKERS**

*Specific national rules and procedures governing access to a visa and/or a residence permit which apply to third-country nationals who are resident in another Member State but are employed as cross-border workers in Ireland*

Third-country nationals from visa-required States, who are resident in Northern Ireland and working in the Republic of Ireland, are required to hold an Irish visa. The applicable procedure is the same as for a third-country national who migrates to Ireland from a third country for the first time. Such workers are not currently required to hold an Irish residence permit.

### **1.7 SEASONAL WORKERS**

*Specific national rules and procedures which apply to third-country nationals who are resident in another Member State and who exercise an economic activity as seasonal workers in Ireland in respect of their access to a visa and/or residence permit*

None.

### **1.8 WORKERS IN REGULATED PROFESSIONS**

*Specific national rules and procedures which apply to third-country nationals who are resident in another Member State and who apply to work in a regulated profession in Ireland in respect of their access to a visa and/or residence permit*

The national rules and procedures regarding visa and residence permits that apply to third-country nationals working in another EEA country in a regulated profession, who wish to move to Ireland for the purposes of work, are the same as the national rules and procedures that apply to third-country nationals who migrate to Ireland from a third country for the first time. The fact that an individual has an EU immigration history may support his or her application for a visa or residence permit on a case-by-case basis.

## **1.9 ANY OTHER CATEGORY OF MIGRANT WORKER NOT MENTIONED ABOVE**

### ***Any specific national rules and procedures which apply to any other group of third-country nationals resident in another Member State***

Work experience or qualifications gained in the EU may help a non-EEA national secure a job offer. However the Department of Jobs, Enterprise and Innovation indicated that there is no particular advantage to an applicant applying for an employment permit in holding EU-based work experience or qualifications. Under the Irish system of employment permits the State licenses an arrangement between employee and employer with an employment permit, after an offer of employment has been made. Effectively the selection of the migrant worker is delegated to the employer by the State.

## **1.10 COMMON RULES AND PROCEDURES FOR ALL MOBILE THIRD-COUNTRY NATIONALS**

Does the national legislative framework in your Member State contain rules and procedures that are relevant to all mobile third-country nationals (rather than rules that differentiate between different groups) in respect of their access to a visa and residence permit?

No Irish law or rules or procedures apply to all intra-EU mobile third-country nationals in respect of their access to a visa and a residence permit. Instead the administrative practices and policies differentiate between different groups (for example students, workers with specific skills and on a particular level of income, doctors etc.). Significantly for this study, the same rules/procedures apply to third-country nationals coming from a third country as from another EU Member State and are therefore not specific to mobile third-country nationals.

# Section 2

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## Scale and Scope of the Phenomenon

### INTRODUCTION

Data sources which provide insights to the intra-EU mobility of third-country nationals to and from Ireland are limited. Ireland does not participate in *Directive 2003/109/EC*, *Directive 2009/50/EC* or *Directive 2004/114/EC*, therefore data on the intra-EU mobility of third-country nationals under these Directives are not collected.

Detailed figures on visa applications by current location of applicant are not readily available and were compiled by the Irish Naturalisation and Immigration Service (INIS) for the purpose of this study, for 2010 only. Data on employment permits issued are incomplete: while the employment permits administrative system has the potential to capture information on the place of residence of the applicant at the time of application, this field is not consistently filled.

A further disaggregation of the relevant published table from Census 2011 was provided by the Central Statistics Office for this study. Data on migration flows by origin/destination, broken down by nationality, are not published in Ireland. The principal source of information for the estimation of the annual migration flows is the Quarterly National Household Survey (QNHS). The Central Statistics Office has stated that the provision of more detailed information on migration flows, such as origin/destination broken down by nationality, is not possible due to measurement issues associated with sub-populations, sample size and other practical issues in sample surveys such as the QNHS.

The number of applications for the recognition of diplomas/certificates acquired in another Member State was also not forthcoming and the country of previous residence is not recorded in social security registrations.

### 2.1 AVAILABLE STATISTICS ON OVERALL INTRA-EU (WORK-RELATED) MOBILITY OF THIRD-COUNTRY NATIONALS IN IRELAND

#### 2.1.1 Employment Permit Statistics

While the employment permits administrative system has the potential to capture information on the place of residence of the applicant at the time of application, this field is not consistently completed. As a result only a tentative estimation can be made of the percentage of work permits issued to workers

who made their application while resident in another EEA country. Table 2.1 indicates that, excluding permits issued to Romanian and Bulgarian nationals and those where residence is unknown (totalling 509 permits), 6.5 per cent of first time permits issued were issued to third-country national resident in the EEA at time of application (110 of 1,685 permits). The equivalent figure for 2011 is 9.5 per cent (143 of 1498 permits).<sup>10</sup>

**Table 2.1 First Time Permits Issued by Country of Residence of Applicant When Application Made 2010-2011**

Permits issued to	2011	2012
Third-country nationals within EEA	143	110
Third-country nationals outside EEA	1,355	1,575
Third-country nationals, residence unknown	421	305
Romanian/Bulgarian nationals	320	204
Total	2,239	2,194

**Source:** Department of Jobs, Enterprise and Innovation.

Based on available data we can say that in 2011 and 2012 the UK was the main EEA “sending country” of mobile third-country nationals. In 2011 there were 60 first time work permits issued to third-country nationals resident in the UK, of which Indian nationals accounted for 28 permits. In 2012 there were 71 first time work permits issued to third-country nationals resident in the UK, of which 19 were Indian nationals.

## 2.2 STATISTICS BASED ON ADMINISTRATIVE REGISTRATIONS

### 2.2.1 Groups of Third-Country Nationals who Enjoy Mobility Rights under the EU’s Migration Directives

Ireland does not participate in *Directive 2003/109/EC*, *Directive 2009/50/EC* or *Directive 2004/114/EC* therefore data on the intra-EU mobility of third-country nationals under these Directives are not collected. No data are available on registrations of researchers resident in Ireland under the provisions of *Directive 2005/71/EC* (of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research) having moved here from another Member State. Useable administrative data are not available on the number of Van der Elst visas issued.

### 2.2.2 Groups of Third-Country Nationals who are Not Provided For by the EU Acquis

Data on the intra-EU mobility of cross-border workers, seasonal workers and workers in regulated professions are not available.

<sup>10</sup> Data are not reported prior to 2011 due to a high proportion of total records showing ‘unknown’ residence.

## 2.3 OTHER/PROXY SOURCES OF STATISTICS

### 2.3.1 Number of Visa Applications by Third-Country Nationals who are Resident in Another EU Member State

Data on visa applications by third-country nationals resident in the EU are not readily available and were compiled by the Irish Naturalisation and Immigration Service for the purpose of this study, for 2010 only. These data, provided in Table 2.2 indicate that in 2010, 17 per cent of all visa applications made (77,940), were made from within the EU. Indian nationals form the largest overall group among third-country nationals applying for visas to Irish missions within the EU, with almost 2,150 applications lodged in 2010; this represents 15 per cent of all applications made by Indian nationals. Nigerian nationals form the next largest group (1,800 applications). During 2010 almost 27 per cent of Nigerian visa applications were made within the EU. A significant proportion of applications by Pakistani nationals (19 per cent) were also made within the EU in the same period.

**Table 2.2 Total Visa Applications (C and D) Lodged to Irish Missions in the Other 26 EU States and Extra-EU States, by Top Five and Other Nationalities, 2010<sup>11</sup>**

Nationality*	EU	Extra-EU	Global total	EU %
India	2,148	12,170	14,318	15.0
Nigeria	1,813	5,004	6,817	26.6
China	863	7,788	8,651	10.0
Russia	787	8,858	9,645	8.2
Pakistan	571	2,489	3,060	18.7
All others	7,221	28,228	35,449	20.4
Total	13,403	64,537	77,940	17.2

**Source:** Irish Naturalisation and Immigration Service.

\*Ordered by top five nationalities among applications lodged within the EU.

Table 2.3 indicates that London was the EU mission receiving the largest number of Irish visa applications in 2010, followed by Berlin and Paris. Overall, the categories of visa applications with the largest percentage made within the EU were “visit” (21 per cent of applications for “visit” visas were made within the EU), “other” (20 per cent) and “conference” (19 per cent). A smaller proportion of applications for education, event/performance, family or employment-related reasons were made within the EU.

<sup>11</sup> Usable administrative data (i.e. with re-entry visas removed) do not distinguish between C and D visas. These figures for visa applications lodged at Irish missions in other EU capitals include any applications originating in Albania, Andorra, Armenia, Bosnia and Herzegovina, Croatia, Georgia, Iceland, Macedonia, Moldova, Monaco, San Marino, and The Holy See. This is because Irish visa services to those countries are provided through Irish embassies located in EU capitals.

**Table 2.3 Total Visa Applications (C and D) Lodged To Irish Consular Posts in the Other 26 EU States, by Top Five Missions and Others, and Purpose, 2010<sup>12</sup>**

	Consular Post	Total	Business	Visit	Conference	Event/performance	Education	Employment <sup>13</sup>	Training	Family	Other reasons
1 <sup>st</sup> main	London	6,919	1,348	4,130	349	98	41	35	46	101	771
2 <sup>nd</sup> main	Berlin	1,054	125	688	77	15	43	6	4	17	79
3 <sup>rd</sup> main	Paris	777	137	395	46	25	80	2	24	17	51
4 <sup>th</sup> main	Madrid	503	33	306	27	4	63	0	3	19	48
5 <sup>th</sup> main	Riga*	443	9	377	3	0	0	2	0	14	38
All other Posts		3,707	478	1,918	346	46	175	16	171	206	351
Total EU		13,403	2,130	7,814	848	188	402	61	248	374	1,338
Total Global		77,940	13,904	36,833	4,509	2,363	5,942	730	2,365	4,553	6,741
EU as % of total		17.2	15.3	21.2	18.8	8.0	6.8	8.4	10.5	8.2	19.8

**Source:** Irish Naturalisation and Immigration Service.

**\*Note:** The high number of applications lodged in Riga mainly appears to be mainly due to applications by Latvian residents holding Latvian Alien's passports or Russian nationality.

### 2.3.2 Information About Previous Country of Residence Contained in the Latest Population Census

A further disaggregation of the following published table from Census 2011 was provided by the Central Statistics Office for this study: "Population aged one year and over usually resident and present in the State classified by age group, usual residence one year previously and nationality".

Table 2.4 shows that almost 99 per cent of people "usually resident"<sup>14</sup> in Ireland lived in Ireland one year prior to Census night (10 April 2011). The data indicate low mobility among third-country nationals within the EU: just 0.6 per cent of non-EU nationals (962 people) lived elsewhere in the EU27 one year previously, with 0.25 per cent (390 people) living in the UK and 0.4 per cent living in another EU27 country.

Among EU27 nationals, excluding Irish and UK nationals, 94 per cent lived in Ireland one year previously and just six per cent lived elsewhere within the EU27. The main EU countries in which this group lived one year before Census night were: Poland (1.4 per cent), Lithuania (0.5 per cent), France (0.5 per cent), Germany (0.4 per cent), Spain (0.4 per cent). Among UK nationals usually resident in Ireland 96 per cent lived in Ireland one year previously and 3 per cent lived in the UK. More detailed data are supplied in Table A.1.

<sup>12</sup> See note above.

<sup>13</sup> Visas issued for reasons of employment are separate to work permits. The term "employment" in this context refers only to the system of categorisation of visas issued.

<sup>14</sup> All persons usually resident and present in the State on census night plus absent persons who are usually resident in Ireland but are temporarily away from home and outside the State on census night (CSO).

**Table 2.4** Usually Resident Population by Place of Usual Residence One Year Ago and Nationality

Place of Residence	Nationality						
	All nationalities %	Irish %	Non-Irish %	UK %	EU27 excluding Irish & UK %	Non-EU %	Not stated, incl. no nationality %
Ireland	98.8	99.5	93.8	96.4	93.7	92.3	99.3
UK	0.3	0.2	0.8	3.1	0.3	0.25	0.1
EU27 excluding Ireland and UK	0.4	0.1	3.1	0.2	5.8	0.4	0.2
Other Europe	0.0	0.0	0.1	0.0	0.0	0.4	0.0
Africa	0.0	0.0	0.2	0.0	0.0	0.7	0.0
Asia	0.1	0.0	0.8	0.1	0.0	2.7	0.1
America	0.2	0.1	0.9	0.1	0.1	3.0	0.1
Australia/NZ/Other Oceanic countries	0.1	0.1	0.2	0.1	0.1	0.3	0.1
Non-EU	0.5	0.2	2.3	0.3	0.3	7.1	0.3
All countries	100.0	100.0	100.0	100.0	100.0	100.0	100.0
All countries	4,453,276	3,863,194	540,234	112,117	271,439	156,678	49,848

**Source:** Census 2011, Special tabulation, Central Statistics Office. Data in Table 2.4 are derived from a cross tabulation of two census questions: “Where did you usually live one year ago?” and “What is your nationality?”

### 2.3.3 Other/Proxy Sources of Statistics

The number of applications for the recognition of diplomas/certificates acquired in another Member State is not available. The country of previous residence is not recorded in social security registrations. Social security registrations by nationality are shown in Table 2.6 below.

## 2.4 STATISTICS ON THE FLOWS OF EU NATIONALS WITHIN IRELAND OVER THE LAST FIVE YEARS

### 2.4.1 Population and Migration Estimates

Data on migration flows by origin/destination, broken down by nationality, are not published in Ireland. The principal source of information for the estimation of the annual migration flows is the Quarterly National Household Survey (QNHS). The Central Statistics Office has stated that the provision of more detailed information on migration flows, such as origin/destination broken down by nationality, is not possible due to measurement issues associated with sub-populations, sample size and other practical issues in sample surveys such as the QNHS. However some indication of the nature of these flows may be gained by juxtaposing tables available from the *Population and Migration Estimates* (CSO, 2012a) on a) estimated immigration/emigration classified by nationality and b) estimated migration classified by country of destination/origin. The two tables are supplied separately and in full in the Appendix: Tables A.2 and A.3)

Table 2.5 shows that almost four times as many immigrants moved to Ireland from the UK in 2012 (8,400) as UK nationals (2,200). Furthermore, if all UK nationals leaving Ireland in the same period (3,500) were going home, they would account for only one fifth of the emigration flow from Ireland to the UK (19,000). These data suggest high mobility between Ireland and the UK, probably among all nationality groupings, particularly Irish and other EU nationals. It is likely that some third-country nationals are mobile within the CTA. In part this may result from challenges in enforcing controls within the CTA (Quinn and Kingston, 2011).

These data also suggest that EU12<sup>15</sup> nationals may migrate onwards when leaving Ireland, perhaps to the UK, the rest of EU15<sup>16</sup> or outside of the EU.

The analysis reveals little about possible intra-EU mobility of third-country nationals: immigration flows by third-country nationals (12,400) are smaller than immigration flows from outside the EU (24,800); also many more emigrants were destined for non-EU countries (44,200) than third-country nationals left the country in 2012 (11,100).

**Table 2.5 Migration Flows by Nationality and Country of Origin/Destination**

Immigration (000s)								
	2009		2010		2011		2012	
	Nationality	Origin	Nationality	Origin	Nationality	Origin	Nationality	Origin
Ireland	23.0	-	17.9	-	19.6	-	20.6	-
UK	3.9	13.4	2.5	9.1	4.1	11.9	2.2	8.4
Other EU15	11.5	18.1	6.2	7.8	7.1	9.7	7.2	10.2
EU12	21.1	17.5	9.3	8.7	10.1	9.8	10.4	9.3
Non-EU	14.1	24.6	6.0	16.2	12.4	21.9	12.4	24.8
Total	73.7	73.7	41.8	41.8	53.3	53.3	52.7	52.7
Emigration (000s)								
	2009		2010		2011		2012	
	Nationality	Destination	Nationality	Destination	Nationality	Destination	Nationality	Destination
Ireland	19.2	-	28.9	-	42	-	46.5	-
UK	3.9	13.2	3.0	15.3	4.6	20.0	3.5	19.0
Other EU15	7.4	7.4	9.0	11.9	10.2	13.9	11.2	14.4
EU12	30.5	25.2	19.0	14.6	13.9	10.4	14.8	9.6
Non-EU	11.0	26.3	9.3	27.4	9.9	36.4	11.1	44.2
Total	72.0	72.0	69.2	69.2	80.6	80.6	87.1	87.1

**Source:** Population and Migration Estimates. CSO, 2012a. Individual tables supplied, A.2 and A.3 for period 2006-2011.

In terms of overall flows, third-country nationals represented 24 per cent of 52,700 immigrants in 2012 and 13 per cent of 87,100 emigrants. EU27 nationals, excluding Irish nationals, accounted for 38 per cent of the immigration flow and 34 per cent of the emigration flow in the same period. More than half of emigrants from Ireland migrated to third countries in 2012 while 47 per cent of immigrants originated from third countries.

<sup>15</sup> Refers to nationals of the 12 Member States that acceded to the EU in 2004 and 2007.

<sup>16</sup> Refers to the 15 States that were members of the EU, prior to the 2004 enlargement.

### 2.4.2 Personal Public Service Numbers

Data on Personal Public Service Numbers (PPS numbers) issued in 2011 show that 30 per cent of new PPS numbers issued to non-Irish nationals in 2011 were issued to third-country nationals (17,555); 31 per cent to EU12 nationals (17,826); 19 per cent to UK nationals (11,014) and 20 per cent to other EU15 (11,905). The proportion of PPS numbers issued to third-country nationals grew over the period 2006-2011, mainly due to the declining share of EU12 nationals.

**Table 2.6 Personal Public Service Numbers (PPSN) Issued to Persons Aged 15 and Over, by Broad Nationality Group and Group and Year of Entry 2006-2011**

Year PPSN allocated	UK	Other EU15	EU12	Third-country nationals	Total Non-Irish
2006	17,722	24,522	131,196	30,503	203,943
2007	17,758	26,261	113,210	31,512	188,741
2008	15,626	24,360	57,128	30,596	127,710
2009	11,026	12,397	20,951	18,871	63,245
2010	11,332	11,911	19,763	16,398	59,404
2011	11,014	11,905	17,826	17,555	58,300

**Source:** CSO, 2013

# Section 3

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## Identified Restrictions to Intra-EU Mobility of Third-Country Nationals

### 3.1 PREFERENCE IN ASSESSMENT OF WORK PERMIT APPLICATIONS?

*Is preference given to union (or EEA/EFTA) citizens when considering applications for work from a third-country national in another Member State or EFTA country?*

The Irish employment permits system is employer-led and a permit will only be issued where a job exists which cannot be filled by an Irish or EEA national. The labour market needs test is the mechanism used to prove that there is no Irish or EEA national available to fill the vacancy in question.

The Employment Permits Acts 2003 and 2006 have the effect that an employment permit may not be granted unless the Minister for Jobs, Enterprise and Innovation is satisfied that all reasonable steps are taken to offer the job in question to an EEA/Swiss national. Since 2012 this includes Romanian and Bulgarian nationals.<sup>17</sup> The Act also states that at least 50 per cent of the employees of the employer in question must be EEA/Swiss nationals.

*Statutory Instrument (S.I. No. 683 of 2006) Prescribed Fees and Miscellaneous Provisions Regulations 2006*, stipulates that vacancies must be advertised in the EURES employment network and in one or more newspapers circulating in Ireland in order to show that a labour market needs test has been undertaken. Currently the vacancy, in respect of which an application for a work permit is being made, must be advertised with the FÁS/EURES employment network for at least eight weeks and in local and national newspapers for six days.<sup>18</sup>

A visa-required third-country national must include evidence of holding an employment permit with his or her application for a visa. Third-country nationals from non-visa required states must present their employment permit to the immigration officer at the border and failure to do so will result in refusal of permission to enter the State under Section 4 of the Immigration Act 2004.

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<sup>17</sup> In July 2012 the Government decided to cease restrictions on labour market access in respect of Bulgarian and Romanian nationals, to the Irish labour market, with effect from the 1 January 2012.

<sup>18</sup> <http://www.djei.ie/labour/workpermits/labourmarketneedstest.htm>.

### 3.2 MINIMUM WAGE

*Is a minimum wage specified that may affect the decision of a third-country national, who is resident in one Member State (or EFTA country), to settle in Ireland?*

Since 1 July 2011 under *S.I. 331 of 2011* the national minimum wage for an experienced adult employee is €8.65 per hour. (An experienced adult employee for the purposes of the National Minimum Wage Act is an employee who has an employment of any kind in any two years and is over the age of 18). This minimum wage applies to workers regardless of their nationality.

### 3.3 FUNDS REQUIREMENT FOR SELF EMPLOYED

*Is there a requirement for third-country nationals who move from another Member State (or EFTA country) in a self employed capacity to have appropriate funds to exercise an economic activity in Ireland?*

Until 2012 a third-country national wishing to migrate to Ireland to establish a business could only do so by applying for a business permission permit. Under this scheme a minimum capital transfer of €300,000 is required and the business permission holder must employ at least two EEA nationals.

In 2012 two new schemes were introduced which offer more flexible terms to immigrant entrepreneurs and/or investors. Under the new immigrant entrepreneur scheme a third-country national may apply for residence in Ireland to pursue a “high-potential start-up” provided he or she has €75,000 in financial backing and meets a number of additional requirements. Significantly there are no initial job creation targets and no requirement to employ Irish/EEA nationals. Residence may be issued for an initial two year period, renewable for three years after which period the entrepreneur may then apply for long-term residence. Between April-December 2012, 14 applications from immigrant entrepreneurs were approved (Department of Justice and Equality, 2013). An immigrant investor scheme was also introduced in 2012 which offers similar residence terms for third-country nationals who make an investment of at least €500,000 in Ireland. The business permission scheme remains in place for more traditional start-up businesses in areas such as retail or hospitality.<sup>19</sup>

### 3.4 RECOGNITION OF QUALIFICATIONS

*What are the national rules or procedures governing the recognition of degrees and diplomas that may affect the decision of a third-country national to relocate?*

While certain legal structures exist to assist migrants with qualifications gained within the EEA to have those qualifications recognised, this is not the case for

<sup>19</sup> <http://www.inis.gov.ie/en/INIS/Pages/New%20Programmes%20for%20Investors%20and%20Entrepreneurs>.

migrants with qualifications gained outside the EEA. Under *EU Directive 2005/36/EC* for Mutual Recognition of Professional Qualifications, provisions are made for EU nationals wishing to pursue a regulated profession in a Member State other than that in which they obtained their professional qualifications.<sup>20</sup> The Bologna Framework aims to provide a mechanism to relate national frameworks of qualifications to each other and involves 45 states within the European Higher Education Area.

The recognition of non-EEA qualifications is an ongoing challenge for migrants and employers in Ireland. In a recent analysis of labour force survey data, Kingston et al. (2012) found that all national-ethnic groups, apart from White UK and White EU13 individuals, reported substantially higher rates of discrimination in the workplace than White Irish.<sup>21</sup> The authors suggest that part of the problem may be with the employer having difficulty in recognising educational qualifications earned outside Ireland. A substantial body of research exists which shows that immigrants in Ireland are employed at occupational levels below their level of qualification (see for example Barrett, Bergin and Duffy, 2006). Barrett and Duffy (2008) speculate that non-recognition of qualifications may be one contributory factor to such underemployment.

An International Qualifications Database is administered by Quality and Qualifications Ireland (QQI).<sup>22</sup> The database provides advice regarding the comparability of a number of foreign qualifications in Ireland along with information on the education and training systems of certain countries.

Individuals may also apply to have their qualification recognised by the Qualifications Recognition service, which is part of the QQI. This service seeks to compare a foreign qualification to a qualification that is placed at a particular level on the Irish National Framework of Qualifications (NFQ). Processing times are approximately 12 weeks. Once a decision has been reached a statement of comparability is sent to the award holder which contains information on the status of the awarding body in the country where the award is attained. If the award is made by a recognised awarding body, the statement includes advice on the comparability of the award in Ireland by comparing it to a level on the National Framework of Qualifications (NFQ). The Irish National Framework of Qualifications is aligned with the Bologna Framework (the Framework for Qualifications of the European Higher Education Area).

<sup>20</sup> The Irish Minister for Education and Skills recently undertook to prioritise the proposed new Directive to amend *Directive 2005/36*, on the recognition of professional qualifications, under the Irish Presidency of the EU Council. The Minister also signalled his intention to further develop the National Qualification Frameworks and the European Qualifications Framework (EQF). See <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR13-01-02.html#>.

<sup>21</sup> Self-reported discrimination based on responses to the question "In the past two years, have you personally felt discriminated against in the workplace".

<sup>22</sup> <http://www.qualificationsrecognition.ie/qualification-recognition-service-database.html>.

Projects on the mutual recognition of qualifications exist between Ireland and the UK, New Zealand and Australia. An Agreement on Mutual Recognition of Higher Education Qualifications between Ireland and China was signed in 2006.<sup>23</sup>

### 3.5 ACCESS TO SOCIAL SECURITY AND SOCIAL SERVICES

#### *What are the national rules or procedures governing access to social security and social services for third-country nationals and their families that may affect the decision of a third-country national to relocate?*

A Habitual Residence Condition (HRC) must be met in order to access certain social assistance schemes in Ireland and to child benefit, regardless of nationality. All applicants must show they are both resident in, and have a proven close link to Ireland. When the HRC condition was first introduced there was a requirement for a minimum two year residence in Ireland but this has been replaced with a more fluid assessment of a number of different factors. Currently the Department of Social Protection assesses the following:

1. The length and continuity of the applicant's residence in Ireland.
2. The length of and reason for any absence from Ireland.
3. The nature and pattern of employment.
4. The applicant's main centre of interest, based on facts such as: location of home; where close family members live; whether the applicant belongs to social or professional associations in Ireland; and any other evidence or activities indicating a settled residence.
5. Future intention to live in the Republic of Ireland as it appears from the evidence.<sup>24</sup>

The evidence used to assess each of the above depends on the facts of the individual case and the final decision reached is, to some extent, subjective. It is possible to bring an appeal against a negative decision on the HRC to the independent Social Welfare Appeals Office. Under EU law EEA/Swiss nationals do not have to satisfy the Habitual Residence Condition in order to access family benefits<sup>25</sup> and Supplementary Welfare Allowance.

In order to qualify for jobseeker's payments (means-tested payment to people who are unemployed and looking for work) a person must also be available for work, that is hold a work permit, visa or immigration status which does not restrict them in obtaining employment.<sup>26</sup>

Social Security Agreements exist between Ireland and the following countries:

- Canada;
- Republic of Korea;

<sup>23</sup> <http://www.qualificationsrecognition.ie/qualification-recognition-service-agreements.html>.

<sup>24</sup> [http://www.welfare.ie/en/Pages/Habitual-Residence-Condition\\_holder.aspx](http://www.welfare.ie/en/Pages/Habitual-Residence-Condition_holder.aspx).

<sup>25</sup> Child Benefit, Domiciliary Care Allowance, Family Income Supplement, Guardian's Payment (Non-Contributory) and One-Parent Family Payment.

<sup>26</sup> [http://www.welfare.ie/en/Pages/Habitual-Residence-Condition\\_holder.aspx](http://www.welfare.ie/en/Pages/Habitual-Residence-Condition_holder.aspx).

- Australia;
- the United States of America;
- New Zealand (see information leaflet SW 95);
- Québec;
- Switzerland (largely superseded by EC Regulations);
- United Kingdom covering those parts of the United Kingdom that are outside of the European Union i.e. Isle of Man and the Channel Islands (Jersey, Guernsey, Alderney, Herm and Jethou);
- Japan.

These agreements protect the State pension entitlements of Irish people who go to work in these countries and they protect workers from those countries who work in Ireland. They allow periods of Irish social insurance and depending on the legislation in the other country, periods of residence/contributions which are completed in the second country to be taken into account so that the worker may have his/her entitlement to a pension determined. They also include arrangements for posted workers who are sent on temporary work assignments from one country to the other by deciding which country's social security legislation will apply to the workers.<sup>27</sup>

### 3.6 ANY OTHER RESTRICTIONS

As discussed above the intra-EU mobility of third-country national workers is an area that has received little policy attention in Ireland. The Irish immigration system does not actively facilitate the intra-EU mobility of third-country nationals, nor are there measures introduced specifically to restrict such mobility.

There are a number of areas where the absence of legislation and/or policy could deter intra-EU mobility. Ireland does not have a pre-entry clearance system beyond the requirement to apply for a visa. This means that for nationals of visa-exempt states there is no way of checking that they meet the requirement to enter the State. An Irish visa is a form of pre-entry clearance to travel to a point of entry to the State only. Whether or not it carries a legitimate expectation of entering the State has been debated in the Courts.<sup>28</sup> All non-EEA migrants must seek permission to enter the state from an immigration officer at the border and permission may be refused under grounds set out in Section 4 of the Immigration Act 2004.

A related issue concerns non-EEA workers who wish to work in Ireland for a short period. Such workers do not require an employment permit as long as their planned stay is for a period of under three months. These workers again must provide sufficient documentation to the immigration officer at the border to persuade him or her to grant permission to enter the State.

<sup>27</sup> <http://www.welfare.ie/en/Pages/Bilateral-Social-Security-Agreements-with-Other-Countries.aspx>.

<sup>28</sup> *VI v Minister for Justice, Equality and Law Reform* [2007] 4 I.R. 42.; *Ezenwaka & Anor v The Minister For Justice, Equality And Law Reform*, Unreported, High Court, Hogan J, 21 July, 2011 [2011] IEHC 328.

Ireland does not currently have a statutory long-term residence status and has not exercised its opt-in to *Council Directive 2003/109/EC* on third-country national long-term residents. An administrative status exists which may be granted to employment permit holders and their family members only. This status is discretionary and not well defined in terms of rights and entitlements: the impact of temporary departure from the State for example is not clear (Immigrant Council of Ireland, 2011). A statutory long-term residence in Ireland was proposed in the Immigration, Residence and Protection Bill, 2010 which is currently under review. The Minister for Justice and Equality has signalled that a revised Bill will be published later in 2013.<sup>29</sup>

Family reunification is provided for in Ireland for persons with refugee status, subsidiary protection status, under various employment permit and 'Researcher' schemes, religious ministers and, in certain limited cases, for students. The concept of family reunification in Ireland is enshrined in legislation only in the case of persons with recognised refugee or subsidiary protection status (Joyce, 2012). Ireland does not participate in *Directive 2003/86/EC* on the right to family reunification. In practice family unification is common.<sup>30</sup> Green Card holders may be accompanied by family members when entering the State and work permit holders may apply to have family member join them after one year of employment, provided their income is above a certain level. However the Immigrant Council of Ireland (2012) has argued that the degree of Ministerial discretion involved in decision-making in the area results in lack of clarity for non-EEA migrants. The Minister has recently indicated that he intends to publish a detailed policy document, including guidelines, on family reunification.<sup>31</sup>

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<sup>29</sup> Minister Alan Shatter. Answer to Parliamentary Question, Wednesday, 6 February 2013.

<sup>30</sup> Information from INIS.

<sup>31</sup> Minister Alan Shatter. Answer to Parliamentary Question, Wednesday, 6 February 2013.

# Section 4

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## Conclusions

The absence of data makes investigation of the intra-EU mobility of third-country nationals to/from Ireland difficult. The potential exists for this type of data to be made more easily available from employment permit applications records and visa records.<sup>32</sup> More generally, data on migration flows to and from Ireland by national grouping would be instructive. The Quarterly National Household Survey, which informs the annual Population and Migration Estimates, is one means by which such data could be collected but the Central Statistics Office have made clear the difficulties in sampling “minority communities” in a proportionate and representative way (CSO, 2012b).

Sufficient data exist to indicate that intra-EU mobility to and from Ireland is low. While the decision to migrate is clearly a private one based on employment opportunities, family circumstances, language etc., there are certain features of the current Irish migration system that makes intra-EU mobility more difficult for third-country nationals:

- Ireland has not exercised its opt-in to several EU Directives with provision for intra-EU mobility: the Long-term Residents Directive, the Blue Card Directive and the Students Directive;
- The lack of a pre-entry clearance system for third-country nationals means that the potential for wasted journeys and inconvenience exists;
- Problems with a lack of recognition of non-EEA qualifications does not impact on whether or not an employment permit is issued by the Department of Jobs, Enterprise and Innovation. However non-recognition of qualifications is likely to be a major obstacle to third-country nationals finding employment in Ireland prior to making such an application;
- The Habitual Residence Condition means that access to all social assistance payments is restricted to those who can prove a connection to Ireland;
- There are a number of areas where the absence of legislation and/or policy could deter intra-EU mobility, perhaps most significant in this regard are the absence of a statutory long-term residence scheme and a family reunification scheme.

It is anticipated that the revised Immigration, Residence and Protection Bill 2010 (expected in the coming months) will contain provision for a long-term residence status. In relation to family reunification the Minister for Justice and Equality

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<sup>32</sup> Data would relate to visa-required nationals only.

recently indicated that he intends to publish a detailed policy document, which “will provide further clarity on the criteria and the process that will be applied”.<sup>33</sup>

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<sup>33</sup> Minister Alan Shatter. Answer to Parliamentary Question on Wednesday, 6 February 2013.

## Appendix

**Table A.1 Available Data from Census 2011: Place of Usual Residence One Year Ago by Nationality**

	All nationalities	Irish	Non-Irish	UK	EU27 excl Irish & UK	Non-EU	Not stated, incl no nationality
Ireland	4,400,009	3,843,601	506,894	108,045	254,238	144,611	49,514
All excl. Ireland	5,3267	19,593	33,340	4,072	17,201	12,067	334
EU27 excl. Ireland	3,1381	10,041	21,168	3,698	16,508	962	172
UK	1,1887	7,338	4,492	3,423	679	390	57
Austria	171	43	127	6	116	5	1
Belgium	394	210	183	11	159	13	1
Bulgaria	137	8	129	1	122	6	.
Cyprus	99	51	47	15	26	6	1
Czech Republic	355	40	315	4	301	10	.
Denmark	203	33	168	4	155	9	2
Estonia	112	4	108	1	104	3	.
Finland	153	24	128	.	124	4	1
France	2,306	529	1,759	72	1,603	84	18
Germany	1,663	323	1,334	26	1,236	72	6
Greece	114	29	85	3	77	5	.
Hungary	654	33	620	.	610	10	1
Italy	1,092	186	895	14	830	51	11
Latvia	1,179	7	1,160	.	1,105	55	12
Lithuania	1,717	11	1,695	.	1,668	27	11
Luxembourg	62	35	26	9	10	7	1
Malta	57	19	38	10	26	2	.
Netherlands	583	200	381	14	340	27	2
Poland	3,920	95	3,810	9	3,772	29	15
Portugal	268	54	212	4	185	23	2
Romania	1,124	21	1,085	.	1,065	20	18
Slovakia	431	9	421	.	414	7	1
Slovenia	39	5	34	.	31	3	.
Spain	2,268	662	1,597	70	1,456	71	9
Sweden	393	72	319	2	294	23	2
Other Europe	1,033	296	729	10	100	619	8
Africa	1,695	484	1,195	33	43	1,119	16
Asian Countries	5,545	1,079	4,419	85	111	4,223	47
America	7,928	2,904	4,978	98	248	4,632	46
Australia/NZ/Other Oceanic	5,685	4,789	851	148	191	512	45
Non-EU	21,886	9,552	12,172	374	693	11,105	162
All countries	4,453,276	3,863,194	540,234	112,117	271,439	156,678	49,848

**Source:** Census 2011, Special tabulation, Central Statistics Office. Table: "Population aged one year and over usually resident and present in the State classified by age group, usual residence one year previously and nationality".

**Table A.2 Estimated Migration Classified By Country of Destination/Origin, 2006-2012**

	Emigrants					Immigrants					Net migration
	UK	Rest of EU 15	EU12	Rest of World	Total	UK	Rest of EU 15	EU1 2	Rest of World	Total	
2006	8.8	5.7	2.3	19.1	36.0	17.7	13.5	49.3	27.3	107.8	71.8
2007	11.1	3.5	7.7	23.9	46.3	18.2	20.3	72.6	40.0	151.1	104.8
2008	7.6	7.8	10.1	23.7	49.2	19.4	14.5	45.5	34.1	113.5	64.3
2009	13.2	7.4	25.2	26.3	72.0	13.4	18.1	17.5	24.6	73.7	1.6
2010	15.3	11.9	14.6	27.4	69.2	9.1	7.8	8.7	16.2	41.8	-27.5
2011	20.0	13.9	10.4	36.4	80.6	11.9	9.7	9.8	21.9	53.3	-27.4
2012	19.0	14.4	9.6	44.2	87.1	8.4	10.2	9.3	24.8	52.7	-34.4

**Table A.3 Estimated Migration Classified By Nationality, 2006-2012**

	Emigration						Immigration						Net migration
	Irish	UK	Rest of EU 15	EU12	Rest of World	Total	Irish	UK	Rest of EU 15	EU12	Rest of World	Total	
2006	15.3	2.2	5.1	7.2	6.2	36.0	18.9	9.9	12.7	49.9	16.4	107.8	71.8
2007	12.9	3.7	8.9	12.6	8.2	46.3	30.7	4.3	11.8	85.3	19.0	151.1	104.8
2008	13.1	3.7	6.0	17.2	9.0	49.2	23.8	6.8	9.6	54.7	18.6	113.5	64.3
2009	19.2	3.9	7.4	30.5	11.0	72.0	23.0	3.9	11.5	21.1	14.1	73.7	1.6
2010	28.9	3.0	9.0	19.0	9.3	69.2	17.9	2.5	6.2	9.3	6.0	41.8	-27.5
2011	42.0	4.6	10.2	13.9	9.9	80.6	19.6	4.1	7.1	10.1	12.4	53.3	-27.4
2012	46.5	3.5	11.2	14.8	11.1	87.1	20.6	2.2	7.2	10.4	12.4	52.7	-34.4

Source: CSO, 2012 Population and Migration Estimates.

## References

- BARRETT, A. and DUFFY, D., 2008. 'Are Ireland's Immigrants Integrating into its Labour Market?' *International Migration Review* Vol. 42 No. 3 pp 597-619.
- BARRETT, A., BERGIN, A. and DUFFY, D., 2006. 'The labour market characteristics and labour market impacts of immigrants in Ireland'. *The Economic and Social Review*, Vol. 37, No. 1, pp. 1–26.
- CSO, 2013. *Foreign Nationals: PPSN Allocations, Employment and Social Welfare Activity, 2010-2011*. Available at <http://www.cso.ie>.
- CSO, 2012a. *Population and Migration Estimates, April 2012 (with revisions from April 2007 to April 2011)*. Available at <http://www.cso.ie>.
- CSO, 2012b. *Quarterly National Household Survey, Quarter 3 2012 (with revisions from April 2007 to April 2011)*. Available at <http://www.cso.ie>.
- DEPARTMENT OF JUSTICE AND EQUALITY, 2012. 'Immigration in Ireland – 2011 in Review'. *Press Release*. Available at <http://www.justice.ie>.
- DEPARTMENT OF JUSTICE AND EQUALITY, 2013. 'Immigration in Ireland – 2012 in Review'. *Press release*. <http://www.justice.ie/en/JELR/Pages/PR13000002>.
- EUROPEAN COMMISSION, 2011. 'Posting of workers in the European Union and EFTA countries: Report on E101 certificates issued in 2008 and 2009'. European Commission: DG Employment, Social Affairs and Inclusion: Analysis, Evaluation, External Relations: Employment Analysis: Brussels.
- IMMIGRANT COUNCIL OF IRELAND, 2011. *Living in Limbo: Migrants Experiences of Applying for Naturalisation in Ireland*. Immigrant Council of Ireland: Dublin.
- IMMIGRANT COUNCIL OF IRELAND, 2012. 'Submission to European Commission: Response to Green Paper on Right to Family Reunification of Third-Country Nationals living in the European Union (*Directive 2003/86/EC*)'. Immigrant Council of Ireland: Dublin.
- JOYCE, C., 2012. *Misuse of the Right to Family Reunification: Ireland*. European Migration Network. ESRI: Dublin.
- JOYCE, C., forthcoming. *Annual Policy Report on Migration and Asylum 2012: Ireland*. European Migration Network. ESRI: Dublin.
- MCGINNITY, F., QUINN, E., O'CONNELL, P.J., KINGSTON, G., 2012. *Annual Monitoring Report on Integration, 2011*. The Integration Centre/ESRI: Dublin.
- QUINN, E., 2010. *Satisfying Labour Demand through Migration: Ireland*. European Migration Network. ESRI: Dublin.
- QUINN, E., 2011. *Visa Policy as Migration Channel: Ireland*. European Migration Network. ESRI: Dublin.
- QUINN, E. and KINGSTON, G., 2012. *Practical Measures For Reducing Irregular Migration: Ireland*. European Migration Network. ESRI: Dublin.



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