

Summary:

CZ EMN query on the national criteria for employers of labour migrants from the third countries

June 2015

Below you can find [a comparative overview/summary](#) of an ad-hoc query launched by the Czech EMN Contact Point on the national criteria for employers of labour migrants from the third countries, including the answers of 22 Member States.

No Member State did refuse further dissemination of its answers.

Member states were requested to answer the following questions:

In 2014, the Czech Republic implemented the EU “Single Permit Directive” (2011/98/EU) and introduced a new type of long-term residence permit for the purpose of employment called the “Employee Card”. Since the introduction the Czech Republic has faced negative experience with certain employers that create job vacancies for third-country nationals (potential Employee Card holders). Thus, the Czech Republic intends to set more selective criteria for all legal entities and natural persons willing to employ labour migrants from the third countries.

In order to revise relevant Czech national legislation, we would like to ask other EMN NPCs:

1. Does your national legislation set any selective (positive or negative) criteria for legal entities or natural persons willing to employ third-country nationals applying for admission or already legally (temporarily) staying in the territory of your Member State?
2. If yes, specify these criteria (e. g. an employer must not be sanctioned for the breach of legal obligations regarding taxation, social security or labour rights, be wound up under national insolvency laws, be economically inactive or unavailable for inspection authorities etc.).

Member states provided these answers:

1. 16 Member States explicitly conveyed that they did have relevant criteria in their national legislations. Only 1 Member State (Slovakia) provided a negative reply. 4 Member States gave only indirect answers explaining the principles of their labour migration systems which, however, imply that 2 out of these Member States do apply certain criteria on employers and other 2 do not.

2. a) Positive criteria

5 Member States established systems of authorization / certification / licensing of employers of third-country nationals by competent national authorities. Such procedure is either obligatory or deliberate (2 Member State) for legal entities or a natural persons willing to employ foreign nationals. 2 Member States declare that an employer has to be at least registered by competent authorities.

- b) Negative criteria

A comprehensive summary shows that national legislations of the Member States comprise a wide scale of various restrictive criteria which temporarily or completely prevent third-country nationals from being employed by a legal entity or a natural person who

- fails to comply with national regulations on recruitment or employment of third-country nationals (including undeclared or irregular employment) [11 Member States],
- fails to comply with national regulations on working conditions, guaranteed / minimum wage or work safety [8 Member States],
- is convicted for a criminal offence like employment of illegally staying third-country nationals, trafficking in human beings, fraud, money laundering or other crime [5 Member States],
- has tax arrears [4 Member States],
- makes an employee redundant during the six or twelve months preceding the third-country national's application for residence / employment permit (for the same or similar job) or dismisses employees collectively during this time period [4 Member States].

Other less frequented negative criteria applied by some Member States on employers of third-country nationals include such disqualifying factors as

- employer's bankruptcy or insolvency,
- employer's breach of legal obligations regarding social security / health insurance,
- employer's failure to provide migrant worker with suitable housing,
- employer's failure to meet the duty to notify relevant authorities in specified cases according to the national legislation,
- low percentage of employees from the EEA countries,
- on-going strike at the employer.

etc.