



Legal economic migration

**SCREENING WITH CROATIA AND TURKEY - EXPLANATORY
SESSION**

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DG JLS/B2 “Asylum and immigration”

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Economic immigration: admission of third-country nationals

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At the current state of the acquis, there are no directives concerning the admission of economic immigrants in the EU.

Admission of economic immigrants – for paid and self-employment – still falls for the time being under national legislation.

Nevertheless, 2 Council Resolutions are in force, setting down the principles governing Member States' policies in this field:



1.

**Council Resolution of 20 June 1994 on
limitations on admission of third-
country nationals to the territory of the
Member States for employment.**



This resolution sets down the principle of Community preference:

- *“Member States will consider requests for admission to their territories for the purpose of employment only where vacancies in a Member State cannot be filled by national and Community manpower or by non-Community manpower lawfully resident on a permanent basis in that Member State and already forming part of the Member State’s regular labour market”*
- Member States put this principle in practice through the so-called « economic needs test ».
- Exceptions are foreseen in the text for temporary residence, notably for seasonal workers, trainees, frontier workers and Intra-Corporate Transferees (falling under GATS mode4).



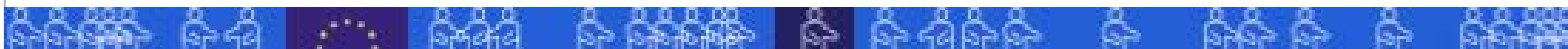


- This resolution also foresees restrictions as to the scope of employment (in principle, a specific job with a specific employer) and as to the period of admission.
- It does not apply to admission for family reunification, to EU and EEA nationals and to third-country nationals whose access to employment is covered by rights stemming from agreements governed by EC law concluded with third-countries.




2.

Council Resolution of 30 November 1994
relating to the limitations on the admission
of third-country nationals to the territory of
the Member States for the purpose of
pursuing activities as self-employed
persons



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- It only concerns individuals and not the setting up of firms.
 - Admission is allowed only if it has duly been established that the independent economic activity will be beneficial to the economy of the host country (in terms of investment, innovation, transfer of technology, job creation).



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- The resolution provides several examples of elements to verify such economic impact: evidence of funds available, number of staff, business plan, etc.
 - Third-country nationals admitted as self-employed must not enter the labour market, i.e. engage in a salaried activity (paid employment).



Combating illegal employment

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Two instruments



- Council Recommendation of 22 December 1995 on harmonising means of combating illegal immigration and illegal employment and improving the relevant means of control
- Council Recommendation of 27 September 1996 on combating the illegal employment of third-country nationals



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- Need for valid residence and work permits issued according to national law.
 - Both acts underline the importance of checks by the relevant authorities and encourage internal coordination and collaboration among the national administrations concerned.
 - Both acts ask Member States to provide in their national legislations for adequate penalties for employers employing third-country nationals who are not entitled to work and/or reside in the Member State.



The Hague Programme



The Hague Programme has underlined the importance of combating illegal work in the context of the fight against illegal immigration by stating that:

"As the informal economy and illegal employment can act as a pull factor for illegal immigration and can lead to exploitation, the European Council calls on Member States to reach the targets for reducing the informal economy set out in the European employment strategy."

