



**Ad-Hoc Query on the establishment of commercial companies by third country nationals**

**Requested by SI EMN NCP on 9<sup>th</sup> July 2009**

**Compilation produced on 1<sup>st</sup> September 2009**

**Responses from Austria, Belgium, Estonia, Finland, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom (18 in Total)**

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**1. Background Information**

In the last few months Slovenia has been dealing with increasing number of private commercial companies established by third country nationals and consequently with increasing employment of third country nationals, who are appointed as their representatives or who are major owners of capital in these companies. In most cases, according to our findings, these third country nationals have been abusing this system to obtain work permits and to legally enter the territory of Slovenia with no intention to pursue economic activities whatsoever.

In the context of preparation of new legislation, we would appreciate information regarding the conditions for obtaining work permits for third country nationals who are appointed as representatives or are major owners of capital in commercial companies established by third country nationals.

It would be very much appreciated if we could receive our answers by **7<sup>th</sup> August 2009**.

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## 2. Responses

		Wider Dissemination?	How does your Member State regulate the establishment of commercial companies, which are established by third country nationals (or by foreign companies)? What are the conditions for obtaining work permits for third country nationals, who are appointed as representatives or are major owners of commercial companies?
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.
	Belgium	Yes	<p>TCNs who want to set up a business in Belgium will have to apply for a professional card. The delivery of professional cards for self-employed TCNs falls within the competence of the federal power (as opposed to work permits which is the competence of a regional power).</p> <p>To obtain this professional card a TCN will have to fulfil three criteria:</p> <ul style="list-style-type: none"> <li>- The right of residence: the TCN will need to apply for a so-called type D visa on order to obtain a right of residence.</li> <li>- The ability of the TCN to exercise the self-employed activity. This check is even more important in case of professions to which the access is controlled (i.e. specific training or experience requirements for professions such as cook, butcher, optometrist,...)</li> <li>- There has to be objective evidence that the envisaged professional activity will be of benefit to the Belgian economy (e.g. because it creates a number of new jobs, answers an economic need, promotes innovative activity, etc) or can judge the application on terms of social, cultural, artistic or athletic benefits.</li> </ul> <p>Certain categories benefit from a waiver, and thus need not to apply for a professional card: e.g. professional sportsmen, artists, refugees, foreigners residing abroad who are coming on a business trip for no more than three consecutive months.</p>
	Bulgaria		
	Cyprus		
	Czech Republic		
	Denmark		

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	<b>Estonia</b>	<b>Yes</b>	<p>In Estonia a residence permit for undertaking business may be issued to an alien who owns shares in a company or acts as a sole proprietor if the company or the sole proprietor is registered in the Estonian Commercial Register and if the business is necessary for the national interest of developing the Estonian economy and the settlement of the alien is important for the business. The fields and, if necessary, the territory of activities, shall be determined in the residence permit for business.</p> <p>An alien may be granted a residence permit for business if:</p> <ul style="list-style-type: none"> <li>• the alien has invested in Estonia a capital sum of 1,000,000 kroons under his/her control in the case of a company;</li> <li>• the alien has invested in Estonia a capital sum of 250,000 kroon under his/her control in the case of a sole proprietor.</li> </ul> <p>An alien who has been granted a residence permit for business so as to participate in the activities of a company may work only in the company determined by the residence permit in order to carry out managerial functions. If an alien has been granted a residence permit for business he/she cannot work in Estonia under the subordination of any other person.</p> <p>You may find more information: <a href="http://www.mig.ee/index.php/mg/eng/working_in_estonia_1/for_business">http://www.mig.ee/index.php/mg/eng/working_in_estonia_1/for_business</a></p>
	<b>Finland</b>	<b>Yes</b>	<p>Self-employed person means a person who pursues a trade or profession in his or her own name (person pursuing a trade) or is comparable to such a person on the basis of his or her corporate responsibility.</p> <p>Issuing residence permits for self-employed persons is based on consideration to ensure that the intended business operations meet the requirements for profitable business.</p> <p>When considering the issue of residence permits for employed or self-employed persons, the authorities shall ensure that the alien's means of support are secured by gainful employment, pursuit of a trade or in some other way. The Finnish Immigration Service grants the residence permits for both employed persons and self-employed persons, after they have been, in the case of employed persons, first subjected to a positive decision by the Employment Office, and in the case of self-employed persons by the Employment and Economic Development Centres.</p> <p>The National Board of Patents and Registration of Finland requires permits from foreigners who comes from outside EEA and wants to establish a business in certain cases. Here you can read more about the procedure: <a href="http://www.prh.fi/en/kaupparekisteri/yrityksen_perustaminen/ulkomaalaisluvat.html">http://www.prh.fi/en/kaupparekisteri/yrityksen_perustaminen/ulkomaalaisluvat.html</a> So a foreigner from outside EEA, cannot solely function in a company without the permission granted by NBPR. For example you cannot be</p>

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			<p>the only board member or Managing Director in a limited company if you are from outside EEA. There must be at least one actual and deputy member of the board living within European Economic Area.</p> <p>Any foreigner can own shares, or a company, basically there are no limitations. There is an Act on the monitoring of foreigners' corporate acquisitions in Finland (30.12.1992/1612), this anyhow only concerns very rare company. Companies that have a significant meaning to national benefit.</p>
	<b>France</b>		
	<b>Germany</b>	<b>Yes</b>	<p>A third-country alien who wishes to start up a company inside Germany, and who wishes to remain here for the purposes of managing this company, is able to obtain a Residence Permit (of limited duration, but capable of being extended) in accordance with § 21 of the Residence Act (Aufenthaltsgesetz - AufenthG) if his or her independent activities are of particular economic – by which it should in particular be assumed that he or she is investing at least 250,000 € and creating at least five work places. The financing of the company must be secured, and, with the involvement of the relevant expert, responsible offices active in that particular commercial sector, it must also be possible to reach a positive prognosis for the commercial activity in question. Since the company must also have a positive effect upon the employment situation within Germany, it is a matter of principle that the jobs created within this company must be filled using personnel who are already a part of the German labour market, (German nationals and foreigners from within the EU, and third-country aliens who are resident in the country on a relatively long-term basis), to which end the Labour Administration will undertake an examination of the labour market. Only if such an examination is, in respect of a specific professional activity, excluded on a general basis as a result of regulations (for example, because there is an across-the-board assumption of a deficit in terms of domestic manpower resources in this sector), or if the examination of the labour market has shown that there is no suitable employee available for the actual job in question, will it be possible for a Residence Permit to be issued to a third-country alien who is newly entering the country (§ 18 in conjunction with §§ 39, 40 of the AufenthG and</p>

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			<p>with the German Ordinance on the Admission of Foreigners for the Purpose of Taking Up Employment (Beschäftigungsverordnung - BeschV).</p> <p>No permission from the Labour Administration shall be required in order for a residence document to be issued by the public authority responsible for aliens to executive personnel, for example, or to certain highly-qualified employees of a company (§ 3 and § 4 of the BeschV):</p> <p>Third-country aliens who are executive employees within a company – senior executives with general or commercial powers of attorney, for example – may thus be issued with a residence permit in accordance with § 18, Paragraph 2, in conjunction with Paragraph 4, of the AufenthG. In the event of the employee under consideration being a highly-qualified one, then he or she may, in accordance with § 19, Paragraph 1 of the AufenthG, immediately be issued with an (indefinite) leave to remain. As regards the issue of whether or not the individual in question counts as highly qualified, one example of the criteria according to which this is to be determined is, in accordance with § 19, Paragraph 2 of the AufenthG, the fact that a specialist or a senior executive with particular professional experience receives a salary amounting to at least the social security contribution ceiling for general old-age pension insurance (since January 01, 2009, a monthly income amounting to 5,400 € in the original Federal States of Germany and 4,550 € in the newly-formed Federal States).</p> <p>In the event that the residence in question is not consistent with the purpose of the residence as declared to the relevant authorities, or if this purpose no longer applies, then the general regulations governing the right of residence shall apply in respect of the termination of residence.</p> <p>For further information please see <a href="http://www.bmi.bund.de">www.bmi.bund.de</a> AufenthG_en and <a href="http://www.gesetze-im-internet.de">www.gesetze-im-internet.de</a> BeschV_de</p>
	Greece		
	Hungary	Yes	<p>Commercial companies may be founded both by foreign and domestic natural persons, legal persons or commercial companies without legal personality for the purpose of pursuing business-like economic activity and such persons may join these commercial companies as a member, or acquire participation (shares) therein. There is no differentiation between domestic and foreign persons when founding a commercial company.</p> <p>Regarding taking up employment, no work permit is required for the director of a branch office or representative office of a foreign-registered business association, or for the chief executives and supervisory board members of commercial companies with foreign participation.</p> <p>In any other cases work permit is required for third-country nationals in order to work for a commercial company.</p>

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			Individual work permits can only be issued by the competent employment centre on the basis of a valid workforce request submitted by an employer and if prior to filing the workforce request, neither any Hungarian worker, nor any EEA national or a relative of such national who is registered as a job-seeker and who satisfies the conditions of the current employment, was available for the position. Both the workforce request and the application for work permit have to be submitted by the employer. According to the general rule, the decision on the application has to be taken within ten working days after having received the application.
	Ireland	Yes	<p><u>Business Permissions for TCNs wishing to establish businesses in Ireland</u>  A non-EEA national requires a business permission from the Department of Justice, Equality and Law Reform in order to set up a business in Ireland. The business permission is subject to certain conditions, in particular a minimum investment of €300,000 in the State, and the employment of at least two EEA nationals in a new project or, at the very least, maintain employment in an existing business. The holder of the business permission does not hold an employment permit.</p> <p>The holder of the business permission must comply with employment permit rules regarding any non-EEA employees of the company. These include a labour market needs test, which involves advertising the vacancy for a set period to ensure that the vacancy cannot be filled by an EU/EEA national, before the vacancy can be filled by a non-EEA national.</p> <p><u>Intra Company Transfer Scheme</u>  The Intra Company Transfer Scheme is an employment permit scheme which is designed to facilitate the transfer of senior management, key personnel or trainees who are foreign nationals from an overseas branch of a multinational corporation to its Irish branch.</p> <p><u>Specialist expertise</u>  Any Irish company can contract in specialist expertise on a short term basis from a third country, if the expertise needed can only be sourced from that region or person. In this case the company is contracting a service from abroad, and the service provider is deemed to be self-employed. As a self-employed person, the service provider does not receive an employment permit.</p> <p><u>Business Visitors</u>  Employees from companies established in Third Countries may enter the State as representatives of that Company as business visitors. Such visits would be short-term and the company should have established business contacts in</p>

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			Ireland. No employment permit is required or granted for such visits.
	<b>Italy</b>	<b>Yes</b>	<p>This issue is expressly covered by article 26 of the “Consolidated Act enacting provisions governing immigration and alien status” in the Legislative Decree no. 286 of 25th of July 1998, partially amended by Law no. 189 of 30th of July 2002.</p> <p>In Italy, non-EU citizens can have a non occasional self-employment (industrial and professional sector, handiwork, trade, creation of a joint-stock company or commercial partnership or managerial position), as long as the activity itself is not reserved by law to Italian or EU citizens.</p> <p>In addition, the regulation establishes the same moral and professional requirements applied to self-employed Italians, including - if necessary - the prerequisites for professional bodies and associations. furthermore, foreign citizens have to prove that their income is sufficient and coming from legitimate sources, their accommodation is appropriate, and that the resources for their activity in Italy are adequate.</p> <p>The current regulation also require that in case foreign citizens want to practice a profession, their professional qualifications obtained in a non-EU country are previously recognized. In particular, for health professions (even if occasional) a previous approval by the Ministry of Health is needed. The Ministry of Justice supervises professions such as: exchange agent, agronomist, social worker, lawyer, biologist, chemist, accountant, job consultant, geologist, surveyor, journalist, engineer, agricultural technician, technical engineer and psychologist.</p> <p>The appropriate Italian Embassies or Consulates abroad check all the prerequisites established by law, and then issue an entry visa for self-employment explicitly stating the activity for which the visa itself is issued. This visa can be used within 180 days from the date of issue, and will allow the worker to apply for a residence permit for self-employment.</p> <p>Regarding statistic issues, we’re sending you in attachment a brief in Italian language about Idos recent Report on “Foreign Entrepreneurship in Italy”.</p> <p>  C:\Documents and Settings\Gregoric\Des</p>
	<b>Latvia</b>	<b>Yes</b>	Latvia is facing the same problem and therefore is preparing some amendments to the Immigration Law. At the

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			<p>moment there are practically no special requirements for third-country businessman. Their right to signature in a company should be registered in the Commercial Register and they have to receive a salary which is not lower than double average salary in Latvia. Once they require a repeated permit, we check if all taxes have been paid. If we can prove that they have been absent from the territory of Latvia, a residence permit is cancelled. We are going to introduce new requirements for issuance of a residence permit. To owners of newly registered companies we are going to issue a multiple visa first and only after one year, if it has been an active and tax paying company - a residence permit.</p>
	<b>Lithuania</b>	<b>Yes</b>	<p>To register a company (Joint Stock Company) in Lithuania it is enough to have an authorized capital of 10,000 LTL (2,900 EUR) and comply with other general requirements established by the law. Uptill now, the Law on the Legal Status of Aliens stated that the alien <u>can obtain a residence permit, valid for one year</u>, if s(he), acting as an owner or a co-owner of no less than 10% of company's authorized capital, registers in the Republic of Lithuania a company, institution, or organization and his residence in Lithuania is necessary to implement goals and conduct activities of the company, institution, organization.</p> <p>This was a rather lax regulation. An alien who had registered a company or was a co-owner of the company (to become one it was enough to own at least 10% of company's authorised capital) was exempted from the requirement to hold a work permit and was issued with a temporary residence permit in the Republic of Lithuania. This way, one could evade strict requirements invoked in issuing temporary residence permits in Lithuania and legalize one's presence in Lithuania. In such way the number of small companies, established by aliens, was continuously growing.</p> <p>In order to put an end to this abuse of the right of establishment, the Law on the Legal Status of Aliens was amended (the Parliament adopted the amendments on the 22nd of July 2009). The amended provision states that an alien can obtain a residence permit, valid for one year, if s(he), acting as an owner or a co-owner, when the nominal value of his/her share of the authorized capital constitutes at least <b>50 000 LTL (14 481 EUR)</b>, registers a company, institution, or organization and his residence in Lithuania is necessary to implement goals and conduct activities of the company, institution, organization. S(he) is exempted from the requirement to have a work permit.</p>
	<b>Luxembourg</b>	<b>Yes</b>	<p><b><u>Establishment of Commercial Activities:</u></b></p> <p>In Luxembourg most commercial activities, the crafts sector or certain independent professions are subject to</p>

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		<p>receiving a right of establishment before setting up business.</p> <p>In fact, the principle of free trade is established in article 11 of the Luxembourg constitution which provides that “the law guarantees freedom of trade and industry, the exercise of professions and of labour except where restrictions may be imposed by the legislature. “</p> <p>It is currently the law of 28 December 1988, called the “law on the right of establishment”, which basically governs access to and practice of activities, subject to authorisation by the Minister of the Middle Classes. The law on the right of establishment of 1988 (as amended) and its rules of enforcement thus make up common law in matters of authorisations of establishment.</p> <p>To this core syllabus are added special laws or laws which include specific provisions governing the right of establishment and the exercise of certain activities which are subject to authorisation by the Minister of the Middle Classes.</p> <p>As time went by, a rather large Community contribution in the form of directives was added to the legal system applicable to all such activities; it broadened the scope and defined mechanisms of recognition concerning professional qualification, although the actual opinion on such qualifications remains largely in the hands of the national authorities:</p> <p>Note : article 26 of the law on the right of establishment which organises the information in favour of third parties provides that the mention of the profession and the issue number of the governmental authorisation must be indicated on all letters, estimates, invoices, building site panels and shop windows.</p> <p>All the information and documents needed for the right of establishment is publicly available on the following link:: <a href="http://www.mcm.public.lu/en/autorisations/index.html">http://www.mcm.public.lu/en/autorisations/index.html</a></p> <p><b><u>Work Permits:</u></b></p> <p>With the exception of those that are self-employed workers, all non European Union nationals are required to have a work permit to seek employment in Luxembourg and be able to legally work in the country. Typically this is applied for by the potential employer on behalf of the employee.</p>
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			<p><i>Required steps to obtain a work permit:</i></p> <p>The employer must first send notification of the vacant job to the Employment Service (Adem). This enables the Adem to check if other persons could have this job on the national labour market.</p> <p>If no-one on the labour market corresponds to the required job profile, the employer must declare the hiring of the foreign worker before this one may begin to work.</p> <p>Then the Adem issues an acknowledgement of receipt of his/her declaration, which is valid as a provisional work permit. The Adem signs the file and passes it on to the Special Commission on Work Permits, which will submit its opinion to the Minister of Foreign Affairs, Immigration Service, for decision. The necessary time for investigation and decision can be between 4 and 8 weeks.</p> <p>The work permit will be issued in duplicate and mailed to the employer.</p> <p>There are four different kinds of work permits with a validity ranging from 1 year to unspecified.</p>
	Malta		
	Netherlands	Yes	<p><b>For a residence permit to work as a director and a major shareholder</b></p> <p>The third country national (TCN) must submit the following documents and documentary evidence :</p> <ul style="list-style-type: none"> <li>- Proof of income,</li> <li>- Where required: a copy of a (application for a) work permit (for non EU subjects)</li> <li>- Documentary evidence that the employer has registered the current employment contract with the Tax and Customs Administration</li> <li>- Proof that the interest in the company is less than 25% and that the TCN receives a salary from a third party (if the TCN interest in the company is greater, he or she must apply for work on a self-employed basis) see below</li> </ul> <p><b>For a residence permit to work on a self employed basis</b></p> <p>The TCN must submit the following additional documents and documentary evidence:</p> <ul style="list-style-type: none"> <li>- Proof of income,</li> </ul>

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			<ul style="list-style-type: none"> <li>- A copy of a document issued by a competent Dutch authority stating that the TCN is entitled to pursue an occupation or run a business</li> <li>- A copy of a business plan that includes:</li> <li>- Information about the TCN, the entrepreneur (personal details, family and income situation, financial obligations, qualifications and professional experience)</li> <li>- Business details (information on the sector in which the TCN will be operating, the start date and place of the business)</li> <li>- Legal aspects (the legal form of the company, business name, licences, liability, insurance and delivery conditions)</li> <li>- Commercial aspects (a description of the type of business and product, the innovative character of these, a description of the market, the target group and the competition, supported by contracts and references)</li> <li>- Management aspects (a description of the organisation of the company and the number of personnel)</li> <li>- Financial aspects (investment estimate, financing plan, repayment plan, operating estimate and liquidity forecast)</li> <li>- A copy of the deed of incorporation showing the authorities and responsibilities of the partners and the profit-sharing arrangement (in the case of a general or limited partnership)</li> </ul> <p>It is furthermore the responsibility of the TCN to support the application by providing as much documentary evidence as possible that the company can make a significant contribution to the Dutch economy. To this end, the following documents can be submitted: copies of diplomas obtained (if the diploma was obtained abroad, the diploma must be recognised by the Netherlands Organisation for International Cooperation in Higher Education [Nederlandse Organisatie voor internationale samenwerking in het hoger onderwijs, Nuffic]. The TCN is responsible for ensuring that this is the case), copies or certificates from (Dutch) degree programmes (degree, doctorate), reference(s) and/or certificates from previous employer(s), employment contract(s) from previous employment relationship(s), contract(s) or references from Dutch (business) partners, turnover figures for the Dutch market. If the foreign national has a company in his or her country of origin, he or she must also attach the company's deed of incorporation and articles of association.</p> <p>If the TCN is a self-employed freelancer, he or she must also attach contract(s) for professional services showing that the he or she will be carrying out work as a freelancer on the basis of contracts</p>
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			<p>If the TCN hold an EC residence permit for long-term residents issued by another EU Member State, he or she should also submit</p> <ul style="list-style-type: none"> <li>- A copy of the EC residence permit for long-term residents issued by the other Member State</li> <li>- Proof of a health insurance policy taken out in his or her name</li> <li>- A copy of the business plan as named above</li> </ul> <p>This business plan does not need to contain descriptions of the innovative character of the company and the product.</p>
	<b>Poland</b>	<b>Yes</b>	<p>As a rule a foreigner should have a work permit and he/she is obliged to have an appropriate visa or residence status. A foreigner who is a member of a board of a legal entity which is registered as an entrepreneur in the Polish National Court Register (KRS) and stays in the Republic of Poland longer than 6 months in consecutive 12 months is obliged to have the B-type work permit. B-type work permits are issued for the standard period (up to 3 years), but members of the board of larger companies (employing over 25 persons) may be granted a work permit for up to 5 years.</p> <p>A foreigner who performs work for a foreign employer and is posted to Poland for a period longer than 30 days during a calendar year to a branch of the organisation or to the related Polish entity (intra-corporate transfers) is obliged to possess C-type work permit. Moreover, the representative of a foreign-based company may receive a regular work permit (type A), but in simplified procedure (without labour market test).</p>
	<b>Portugal</b>	<b>Yes</b>	<p>A third country nationals entering Portugal with the purpose of carrying out a business activity and reside in the country should, first of all, apply for a residence visa, for that matter. The Act n.º 23/2007, of 4th of July, in articles n.º 58 “Residency visa” and 60º, n.º 2 - “Residency visa for taking up a subordinated professional activity or for immigrant entrepreneurs”, consider that kind of situation: “A residency visa is granted to immigrant entrepreneurs who intend to invest in Portugal, provided:</p> <ul style="list-style-type: none"> <li>a) They have made investments; or</li> <li>b) They prove to possess available financial means in Portugal; including those deriving from loans obtained from a banking institution in Portugal, and they demonstrate by any means their intention to carry out an investment action in Portuguese territory.</li> </ul> <p>Available at: <a href="http://www.sef.pt/documentos/56/Nova%20Lei%20de%20EstrangeirosEN.pdf">http://www.sef.pt/documentos/56/Nova%20Lei%20de%20EstrangeirosEN.pdf</a></p>
	<b>Romania</b>		
	<b>Slovak Republic</b>	<b>Yes</b>	Foreign nationals may conduct business in the Slovak Republic based on the same conditions and in the same scope

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			<p>as the citizens of the Slovak Republic unless the legislation stipulates otherwise. Entrepreneurial activities of foreign nationals in Slovakia are governed by the Commercial Code.</p> <p>The minimum overall initial capital required to establish a commercial company is 5.000 € while the minimum initial capital of each stakeholder is 750 €.</p> <p>In case the representative or a major owner of the company will perform the tasks in the Slovak Republic as the employee of the company s/he needs a work permit based on which the temporary residence permit will be issued. In case this concerns the intra corporate transferees the work permit is granted automatically.</p> <p>In case a natural person or a corporate entity (who will not perform the tasks as the employee of already existing company) wishes to start a business in the Slovak Republic, this person/entity will need a residence permit for the purpose of entrepreneurship. Police may grant this temporary residence permit following the issuance of the business licence (the issuance of the business licence and the issue of entrepreneurial activities is governed by the Business Licence Act and Commercial Code as already stated above).</p>
	Slovenia	Yes	<p>Currently national legislation stipulates that commercial companies can be established by third country nationals or through their appointed proxies, simply if they can prove that 7.500 € of initial capital has been invested. It is not required that third country national is present when the company is established nor is required that third country national is in possession of valid residence permit. For every established company it is therefore possible to obtain two work permits – one for representative and one for the major owner of capital.</p>
	Spain		
	Sweden	Yes	<p>Sweden require a residence permit but not a work permit for third country nationals for the purpose of running a business of their own. The applicant must show that the business is expected to achieve satisfactory profits and that he/she can support himself/herself and the family. Bank statements must show necessary capital to establish or buy a business and a detailed accounting of business plans must be provided.(business plans, market study, contract with presumptive customers, investment budget etc.). To be considered to be a major owner the applicant must show that he/she own at least 50 percent of the company. If a third country citizen has obtained a residence permit in order to run or establish a company there are no limitations concerning the number of persons who can get employed in the company.</p>
	United Kingdom	Yes	<p><b>How does your Member State regulate the establishment of commercial companies, which are established by third country nationals (or by foreign companies)?</b></p>

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			<p>The UK has an open, transparent and business-friendly system to encourage the formation of new businesses. There are more than 2 million registered companies in the UK, with over 330,000 new registrations each year. No permission is required to establish a business presence in the UK, although there are regulations on the use of business names and certain business sectors which may require licences or authorisation (such as finance, defence and oil exploration).</p> <p>Companies House is the key government organisation that co-ordinates the administration of businesses in the UK <a href="http://www.companieshouse.gov.uk">www.companieshouse.gov.uk</a>.</p> <p>It is a straightforward process to establish a company in the UK and there are no separate rules for foreign nationals. To register a company, certain mandatory documents such as the “Memorandum of Association” and “Articles of Association” must be filed with Companies House (for England, Scotland and Wales) or with Companies Registry (for Northern Ireland).</p> <p><b>What are the conditions for obtaining work permits for third country nationals, who are appointed as representatives or are major owners of commercial companies?</b></p> <p>The United Kingdom’s immigration rules address two different scenarios that are relevant here. These are:</p> <ul style="list-style-type: none"> <li>(i) a third country national wishes to come to the United Kingdom for the purpose of establishing a commercial company; and</li> <li>(ii) a commercial company based outside the EU wishes to send third country personnel to the United Kingdom for the purpose of establishing a branch of that company in the United Kingdom.</li> </ul> <p>In the first scenario, the foreign national would generally be expected to qualify under Tier 1 of the Points Based System. The Tier 1 (General) category makes provision for those with a high level of qualifications and a track record of achievement, as demonstrated by previous earnings, to come to the United Kingdom for the purpose of employment or to establish a business. Those who qualify in this category are not subject to restrictions on taking employment or establishing a business once if they are admitted to the United Kingdom.</p> <p>There is, in addition, a separate Tier 1 (Entrepreneur) category aimed at those who would not qualify under Tier 1 (General) but who can demonstrate an intention to invest £200,000 or more in a business in the United Kingdom.</p>
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			<p>Tier 1 migrants may be admitted for an initial period of 3 years and this may be extended for a further 2 years at which point any time restriction on the individual's stay may be removed.</p> <p>In the second scenario, there is separate provision in the Immigration Rules for the admission of the sole representative of an overseas business. The current entry requirements are that he:</p> <ul style="list-style-type: none"> <li>(i) has been recruited and taken on as an employee outside the United Kingdom as a representative of a firm which has its headquarters and principal place of business outside the United Kingdom and which has no branch, subsidiary or other representative in the United Kingdom; and</li> <li>(ii) seeks entry to the United Kingdom as a senior employee with full authority to take operational decisions on behalf of the overseas firm for the purpose of representing it in the United Kingdom by establishing and operating a registered branch or wholly owned subsidiary of that overseas firm; and</li> <li>(iii) intends to be employed full time as a representative of that overseas firm; and</li> <li>(iv) is not a majority shareholder in that overseas firm; and</li> <li>(v) does not intend to take employment except within the terms of this paragraph; and</li> <li>(vi) can maintain and accommodate himself and any dependants adequately without recourse to public funds; and</li> <li>(vii) holds a valid United Kingdom entry clearance for entry in this capacity.</li> </ul> <p>A third country national admitted to the United Kingdom on this basis will be admitted for an initial period of 2 years and this may be extended for a further 3 years at which point any time restriction on the individual's stay may be removed.</p>
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