



## Police and Boarder Guard Board

# The notion of family and the position of family members

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# Definition of FAMILY



- ◆ There is no universal legal definition for *family*.
- ◆ The concept of *family* varies in different areas of law.
- ◆ In everyday use the concept of *family* can be very wide and not limited to any legal definition but depending on self determination and the actual closeness of people.
- ◆ In the field of migration the concept of family usually has a specified definition and the mere fact that people consider themselves a family will not be sufficient in order to obtain a right to immigrate together



# Definition of FAMILY in Estonia



- ◆ **Family Law Act** (from 2009)
- ◆ **Aliens Act** (from 2010)
  - ◆ Article 3 *Alien is a person who is not Estonian citizen.*
  - ◆ Regulates issuing of visas, temporary residence permits and long term residents permits to third country nationals
  - ◆ Covers Estonian citizens third country national family members
- ◆ **European Union Citizens Act** (from 2006)
  - ◆ Regulates EU citizens and their family members right of residence in Estonia
  - ◆ EU citizen = the citizen of European Union (not Estonia), European Economic area member state and citizen of Switzerland
  - ◆ EU citizens family member = not the citizen of EU and Estonia





# Family member



Family Law Act	Aliens Act	EU Citizens Act
Spouces (man and women)	Spouces (man and women)	Spouces (man and women)
Minor child (under 18) and parent	Minor child (under 18) and parent	EU citizens child (under 21)
Adult child and parent	Adult child <u>in need of care</u> and parent	EU citizens <b>spouses'</b> child (under 21)
Grandchildren and grandparents	Grandchildren and grandparents <u>in need of care</u>	EU citizens adult child <u>in need of care</u>
<b>Siblings</b>	Guardian and person under guardianship	EU citizens <b>spouses'</b> adult child <u>in need of care</u>
Foster parent and child		EU citizens grandparents <u>in need of care</u>
Adoptive parent and child		EU citizens <b>spouses'</b> grandparents <u>in need of care</u>
Guardian and person under guardianship		EU citizens <b>dependant in consigning country</b>
		EU citizens <b>houshold member in consigning country</b>
		<b>Person needing the personal care of EU citizen</b>

# Comparison of the concept of family member



- ◆ The concept of family member is wider in EU Citizens Act compared to the Family Law Act and the Aliens Act
- ◆ EU citizens enjoy the fundamental right of free movement
- ◆ Question remains about the equal treatment of Estonian citizens family members compared to other EU citizens family members



# Problems in the field of family migration



- ◆ **Marriages of Convenience**
  - ◆ Difficulties in proving
  - ◆ Methods used by PBGB:
    - ◆ interviewing applicants, inviters, neighbors and other connected people
    - ◆ make home visits
    - ◆ verification of documents
- ◆ **Misusing the concept of needing care**
  - ◆ Difficulties in proving
  - ◆ Method – verification of documents



# Marriages of Convenience in Estonia



- ◆ First cases from 2001
- ◆ 10-20 cases per year
- ◆ All under Aliens Act
- ◆ **Profile of the applicant:**
  - ◆ Russian citizens
  - ◆ Man
- ◆ **Profile of the inviter:**
  - ◆ Estonian citizen
  - ◆ Woman

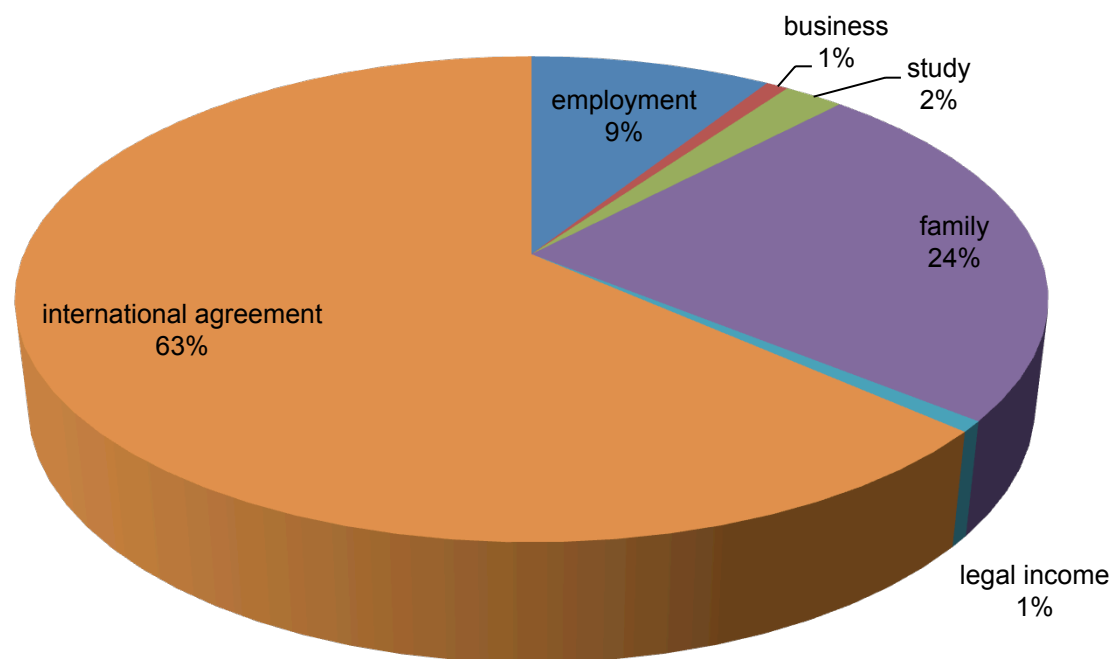




# Temporary residence permits in Estonia



## Valid temporary residence permits



01.01.2011 (n 24 600)





# Family Members under Aliens Act

(by decisions of 2010)



Citizenship	Number
Russia	588
undetermined citizenship	166
Ukraine	103
USA	37
Belarus	28
Georgia	14
India	13
Egypt	13
Israel	12
China	10
Turky	8
other	71
<b>Sum</b>	<b>1063</b>

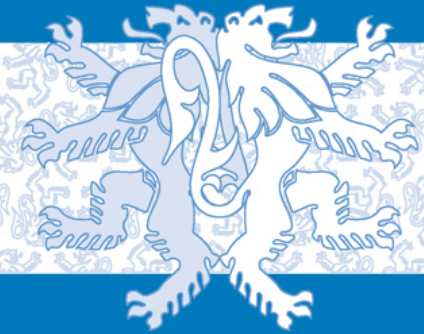
# EU citizens family members

(by valid residence right 01.01.2011)



Citizenship	Number
Russia	48
undetermined citizenship	14
USA	7
Brazil	6
Ukraine	5
Canada	4
Belarus	3
China	3
Russia	48
<b>Sum</b>	<b>105</b>





# THANK YOU!

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