



MIGRATION, EMPLOYMENT AND LABOUR MARKET INTEGRATION POLICIES IN THE EUROPEAN UNION

Part 2: *Labour Market Integration Policies in the European Union (2000-2009)*



IOM International Organization for Migration

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PART 2: LABOUR MARKET INTEGRATION
POLICIES IN THE EUROPEAN UNION
(2000-2009)

Edited by
Anna Platonova and Giuliana Urso



The International Organization for Migration (IOM) two-volume study *Migration, Employment and Labour Market Integration Policies in the European Union* investigates evidence of the labour market impact of migration and explores the role of relevant migrant admission and employment policies in the European Union, as well as Croatia, Norway and Turkey.

Part 1: Migration and the Labour Markets in the European Union (2000-2009) analyses data on labour market impacts of migration, explores labour market outcomes of migrants and identifies challenges and focus areas for national migrant integration policies.

Part 2: Labour Market Integration Policies in the European Union (2000-2009) provides a detailed analysis of national labour market integration policies in the region and their implementation where data is available. The analysis includes direct labour market integration measures, as well as relevant elements of selection and admission policies and their impact on labour market outcomes of migrants.

This study has been commissioned and funded by the Directorate-General for Employment, Social Affairs and Equal Opportunities of the European Commission in the framework of the IOM Independent Network of Labour Migration and Integration Experts (LINET).

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SUMMARY OF FINDINGS

The study has reviewed various policies affecting labour market outcomes of migrants in an attempt to capture the complexity of factors influencing the figures presented in Part I of this report. This section focuses on the policy considerations derived from the analysis of the country reports. In particular, the summary aims to identify areas of action within migrant admission, employment and active integration policies that would need to be considered to ensure improved labour market outcomes for the migrant population. These considerations are illustrated by relevant examples from the country reports. However, these policy recommendations should be considered within a wider framework of fostering reforms towards more flexible labour markets, upholding and promoting equality of rights and opportunity, combating discrimination, strengthening the link between life-long education and learning and the future needs of European economies.

Legal Frameworks for Admission and Employment of Migrants

- National policies for admission and employment of migrants play a key role in successful labour market entry and are a starting point for the integration process. To a significant extent subsequent labour market outcomes of migrants are determined by the provisions regulating entry and access to the labour market.
- Many European Union states use various tools, including quotas and labour shortage lists to regulate labour migration. However, often these mechanisms are inflexible and fail to reflect the actual needs of the labour markets. In many countries the process of admission of migrants for employment is time-consuming, complex and costly, which further pushes employers and migrants towards irregular channels.
 - In Portugal, quotas implemented in 2003-2007 were generally unsuccessful due to being narrowly defined, notably excluding certain low-skilled sectors such as housekeeping, where strong demand had been observed. (Portugal Country Report)
 - In France, where occupational shortage lists are compiled based on the employment service data, the analysis hence does not cover the whole labour

market, as Pôle Emploi does not list all job vacancies, particularly for the very highly qualified jobs. (France Country Report)

- Current admission frameworks in many EU countries do not provide sufficient incentives for highly-skilled third-country nationals to migrate to the EU instead of other major global destinations as reflected in lower shares of highly-skilled migrants in the EU OECD countries as opposed to the rest of the OECD region (DG ENTR on the basis of OECD data, 2009). Many admission regimes provide for no distinction between highly and low-skilled workers, or if additional incentives are provided for the former, they are at present often insufficient in comparison to the conditions offered by other global migration destinations.
- In the past decade many EU countries took certain steps towards developing more comprehensive provisions for admission of migrant workers, and facilitating entry for some of groups of migrants, at the same time limiting the possibilities to migrate for family and humanitarian reasons. However, it would be pertinent to keep in mind that such an approach could discourage potential highly skilled migrants from considering the EU as a migration destination. In addition, family members of highly skilled migrants are often highly skilled themselves and could provide further contribution to the host economies should adequate conditions be created.
- Facilitating independent access to the labour market for all categories of migrants, including in case of family reunification is essential in order to improve levels of integration, especially of female migrants. Family migrants often face restrictions in their access to employment, in many cases having to reside in the host country for a certain period of time before being allowed to work. Such provisions hamper their future chances of successful integration, facilitate brain waste, and increase their dependency on the sponsor migrant. On a positive note, in recent years some countries have amended their legislation to grant immediate access to the labour market to migrants entering on family reunification.
- Long-term demand for migrants in certain middle- and low-skilled occupations is strong and will continue to persist (also as indicated by national labour shortage lists), but many admission frameworks offer limited or no possibilities for even short-term legal employment of third-country nationals in these jobs.
- Granting migrants staying on temporary residence permits possibilities to change employers and occupations would ensure a better match with labour market needs, increase spatial and occupational mobility in the labour market, and contribute to protection of migrant worker rights.
 - In Portugal there are no specific legal provisions tying the third-country national to any specific employer, job or position for holders of temporary residence permits. It is also possible to change a work permit category without leaving the country, for example from an employee to a self-employed status. (Portugal Country Report)
 - In Spain, since July 2009 it is possible to modify permits without geographical and sectoral restrictions as well as to change the type of work permit from self-employment to a contract permit and vice-versa. (Spain Country Report)

- Moreover, security of residence and employment as supported by measures which include availability of long-term work permits and the possibility for an unemployed migrant to remain in the country and seek a job legally, promotes a regular nature for migrant employment.
 - In Portugal, for holders of a temporary residence permit, who must renew their permits every two years,¹ the permit is not dependent on the contract. Facing the economic crisis, the Portuguese government decided to facilitate the conditions and procedures for those migrants who had to renew their residence permits. The renewal of a temporary residence permit is dependent upon the continued existence of sufficient means of subsistence – established at 450 euros for 2009. In order not to exclude migrants who are unemployed, the government further decided to reduce the amount to 225 euros. (Portugal Country Report)
 - In Italy, the interruption of working relations does not imply revocation of a residence permit, neither for the worker nor for the migrant’s family members. The worker may register in the unemployment lists for the residual validity period of the permit, but at the end of this period, if still unemployed, will not be allowed to renew the residence permit. The migrant will receive a special permit for job-seeking for six months that is not renewable. (Italy Country Report)
 - In Spain, the termination of a work contract is not an automatic reason for revoking the renewal of a work or residence permit. Elements such as the lengths of residence or the workers’ social security history are also taken into consideration. Regulations also facilitate the renewal of residence permits for those workers that can prove a continued relation with employment (nine months in a year), and for those that have support of a family network in the host country, in case they cannot show a work contract to renew a permit. (Spain Country Report)
- Finally, even in countries with a relatively clear general framework frequent changes in various regulations regarding admission and employment, and in limited relation to labour market needs, further complicated planning by employers and migrants, and may discourage particularly highly skilled workers from arriving altogether.

Institutional and Policy Framework Pertaining to Labour Market Integration of Migrants

- The stage of development of comprehensive immigration and integration policies is uneven among the Member States. The experience of many countries in Europe that have only become significant countries of destination in the last decade shows that an influx of foreign labour force can happen rapidly. In this

¹ When applying for the first time for a Residence Permit, a third-country national will apply for a Temporary Residence Permit, issued for a maximum of one year, renewable for successive periods of two years.

regard, and given the persisting demographic concerns across the EU, all Member States should consider fostering the debate at the national level on devising legal channels for economic immigration to fill skills and occupational gaps, and on providing potential and existing migrant workers with appropriate integration support.

- In fact, in more than a third of the reviewed countries, including some with substantial migrant population, no systematic attention has been paid to integration in the national policymaking, with some countries either lacking any integration policy, or having adopted general declarations, and others having undertaken only the very first steps towards the creation of relevant state institutions and provision of basic services to migrants. In addition, the existing activities are often project-based and dependent on external funding, which results in their low sustainability.
- At the same time, there are Member States, including very recent countries of net immigration which managed to establish a range of well-coordinated institutions and activities on migrant labour market integration and inclusion in society in general.
- The economic crisis exacerbated the capacity of even these existing structures to carry out meaningful tasks due to severe funding cuts, and some of them have been closed down.
- The continuous trend in the majority of countries towards regulating migration as a temporary phenomenon, granting temporary migrants limited rights, and raising barriers with respect to access to permanent residence status, resulted in a situation when often the majority of migrant worker population are not eligible to participate in the national labour market support and activation measures.
- De-centralization of planning and provision of integration services has been a positive development in the past years, allowing for the provision of measures that are adapted to the respective local situation. In particular, in many countries differences have been observed in the regional distribution of migrants by country of origin, type of entry channel and skill level. However, in some Member States the planning and implementation of integration policy remains centralized, and these countries could benefit from granting regional and local administrations a stronger mandate in designing and implementing migrant integration policies and measures in close cooperation with other stakeholders including employers, trade unions and civil society.
- Other integration stakeholders, in particular employers, trade unions and civil society play an important role in the provision of integration services, especially in the absence of state initiatives.
 - In Romania, trade unions developed actions, such as the System of Sectoral Self-Regulation in Construction (SASEC), which has a bargaining committee for migrant workers. Also, trade unions have concluded partnerships and bilateral agreements with countries of origin (with Chinese trade unions in 2009). (Romania Country Report)

- In Spain, trade unions have played an important role in promoting labour market integration, mainly through information and labour rights protection. Through a national network of contact points, the principal Spanish trade unions (CCOO and UGT) have established different programmes and mechanisms to facilitate the participation of migrant workers in the labour market, to inform them about their labour rights and to defend them if any of these rights are violated. (Spain Country Report)
- Many countries run various types of introduction programmes for migrants that combine elements of language and vocational training and civil education. Some were criticized for having low relevance to the integration needs of migrants and prospective employers, which in some cases led to the gradual change in their content or modalities of service provision.
 - In Portugal, the government is implementing a programme, Portugal Host, to adjust migrants' competencies to the language and professional demands of the labour market. In recent years, technical Portuguese modules by sector were introduced for areas of commerce, hotels and restaurants, beauty care, construction and civil engineering. (Portugal Country Report)
 - In Slovenia, many migrants are not able to attend the courses due to work overload. Many migrants with a temporary residence permit also find the courses have limited relevance as they are only available after two years of stay in Slovenia. (Slovenia Country Report)
 - In Sweden, the introduction programmes have frequently been target of different forms of critique due to lacking effective measures to prepare migrants to enter the labour market and insufficient cooperation between various authorities. In March 2010, a new reform was launched in order to speed up the labour market integration of new migrants, which stipulates that the Public Employment Service, and not the municipalities, will have the responsibility for coordinating the measures to get migrants into employment. This means that every newly arrived person obtains an individual labour market integration plan. (Sweden Country Report)
 - In Norway, the introduction programme is operational since 2004. The OECD (2009) is concerned that some participants could well be ready for labour market integration before the end of their introduction programme. However, there are few incentives to take up employment early, since the introduction benefit linked to programme participation is relatively high. (Norway Country Report)
- Equal access of migrants to national labour market support mechanisms and activation measures is a positive feature of a number of national labour market institutions in the EU. However, as migrants across the EU represent a vulnerable group in terms of labour market outcomes irrespective of skill level, labour market support measures aimed at specific migrant groups could still be relevant, including those for recent arrivals, female and young migrants.
- At the same time, some countries, such as Austria and Belgium have combined the general and targeted approaches by establishing a list of vulnerable groups

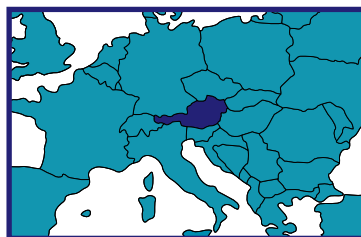
that have priority in access to various labour market measures. Migrants tend to represent one of the most vulnerable groups on the labour market and, therefore are often included in these priority lists.

- The country studies have identified a number of labour market activation practices across the LINET network region:
 - In Norway, there is wide agreement that wage subsidies have proven to be a particularly effective tool to integrate migrants (and others) into the labour market, also in combination with either an apprenticeship position or training. However, the two latter measures seem to have limited effect as stand-alone activities. (Norway Country Report)
 - In France, platforms of vocation (ANPE) established in 2005, are one of the key tools of youth placement, including for migrants and their descendants. The participants are evaluated through a simulation of the working environment by the “platform” which is composed of ANPE staff. Candidates that pass the evaluation can be presented to the employer. More than 70,000 job seekers have been placed between 2005 and 2007 by such platforms. (France Country Report)
 - In Germany, practical training is offered by the Chambers of Commerce and the Chambers of Trade. These organizations advise both apprentices and employers about vocational training, and certify providers of vocational training and apprenticeships. Lack of such training significantly hampers the employment prospects of the immigrant children. (Germany Country Report)
 - In Portugal, the one stop shop National Immigration Support Centres (CNAI) also run Employment Support Offices for migrants that are part of the national network of job centres (UNIVA - Units for Insertion into Active Life) specifically focused on migrants that are formed through partnerships with local organisations – mainly migrant associations, but also with job centres, schools, professional training centres, associations or local authorities. (Portugal Country Report)
 - In Denmark, mentor programmes have proven to be a highly effective tool to help newcomers gain a foothold in the labour market. Companies, through their respective municipalities, receive wage subsidies and grants if they create mentor programmes. (Denmark Country Report)
- The majority of labour market integration measures have focused on migrants, and less on employers. However, successful initiatives promoting diversity management have emerged in a number of countries, and cooperation with employers is increasingly an integral part of labour market activation measures.
 - In Belgium, the Brussels-Capital Region companies deciding to join the regional diversity policy framework can benefit from co-funding (up to 10,000 euros) for the implementation of actions combining four axes of discrimination (origin, age, gender and disability) and four areas of intervention (recruitment and casting, staff management, internal communication and external positioning). (Belgium Country Report)

- Often no disaggregate data on participation of migrants in national labour market support mechanisms and activation measures is available, which hinders the evaluation of the inclusion of this population group in the policy measures and monitoring policy efficiency. In this respect, more sophisticated data collection and evaluation methods could be helpful in monitoring policy results.
- Evaluation of labour market integration measures targeting migrants remains largely focused on the quantitative, rather than qualitative aspects, which could result in successful market insertion, but also in brain waste and strengthening labour market segmentation. In addition, very few programmes also monitor the performance of participants after completion, thus making the assessment of impact of the measure very difficult.
- Recognition of equal opportunities and widespread inclusion of anti-discrimination provisions in national and EU-level legislation needs to be more consistently enforced, especially in the workplaces, and by state support to migrants who wish to pursue legal remedies.
- Major barriers to the recognition of qualifications for third-country nationals persist across the Member States due to complex procedures, lack of awareness among migrants and insufficient resources and structures. Improving these systems, possibly in co-ordination at the EU level would foster the utilization of foreign human capital already available within the EU borders.
- Employment is the cornerstone of integration. However, labour market integration does not guarantee social integration, which is a major step in ensuring both acceptance of immigration by the host country population and the long-term sustainability of migration policy.
- Effective strengthening of coherence between migration and other relevant national and EU policy areas will require ongoing analysis of cross-thematic data. In this regard, current EU-level initiatives on improving social surveys to provide better statistics on migrants are of utmost importance and relevance. Further efforts are also needed at the national level to improve collection and sharing of migration and migration-related data.

AUSTRIA

Gudrun Biffl²



Institutional and Legal Framework for Admission and Employment

The Settlement and Temporary Residence Law (NAG 2005), which replaced the Alien Law of 1992/97, enumerates the conditions under which third-country citizens may enter and reside in Austria. Until 1997, third-country nationals residing in Austria received a residence permit (Aufenthaltsbewilligung). The amendment of the Alien Law in 1997 brought upon a differentiation in the permit system. Residence could be granted on a temporary (temporary residence permit – Aufenthaltserlaubnis³) or permanent basis (settlement permit – Niederlassungsbewilligung). In 2003 a settlement certificate (Niederlassungsnachweis, the de facto “green card”) was introduced.

Temporary resident status does not envisage the possibility of family reunion and access to the welfare payments, especially to unemployment benefits.

The new Foreign Residence Law (NAG 2005) did not only stipulate new rules for the residence of third-country citizens, but also introduced registration of residence for EU citizens. Accordingly, the inflow of citizens from the EU/EEA and their family members is documented since January 2006 (Anmeldebescheinigung). In addition, third-country nationals who have a permanent residence status in another country of the EEA may choose to settle in Austria (Daueraufenthaltskarte).

Irregularly residing third-country nationals are a heterogeneous group who have access to public healthcare in case of emergencies, to education services (e.g. language courses), but have no access to the formal labour and housing market. However, the

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³ From 2006 onwards issued only for persons who reside for more than six months in Austria. Thus, data on the residence status of third-country nationals are not strictly comparable with the previous years.

possibility of issuing a residence permit on humanitarian grounds (at the discretion of the Ministry of the Interior) offers avenues for the legalization of residence.⁴

Temporary residence may be granted on the basis of diverse regulations: a temporary employment permit granted by the Federal Ministry of Economic/Social Affairs and Labour in the case of seasonal work, or as a result of a bilateral cross-border agreement (commuters from Hungary). These temporary work permits are linked to employment contracts, which have a ceiling – in the case of seasonal workers and cross-border commuters – and the residence in Austria is an integrally granted part of the work (no need for processing by the Ministry of the Interior). All other temporary residence cases (students, training and work experience schemes, sports and entertainment schemes) which exceed six months are documented by the Ministry of the Interior. These stays are uncapped and the temporary residence status may be extended. The total number of extensions is almost triple the number of first issues, namely 15,000 in 2008, while the average annual stock amounts to 20,000 persons. The inflow rate of temporary residents has a clear seasonal pattern – it is fairly high in relation to the stock in spring and autumn and low in the winter and summer months.

In addition to settlement permits, the Federal Ministry of the Interior issues temporary residence permits to persons who have obtained the right to enter for study, temporary work and business purposes including services mobility (GATS mode 4) or on humanitarian grounds.

Green Card Permit

The option for long-term foreign residents to apply for a green card introduced by the legal reform of 2003, which allows entry into the labour market without the employer having to apply for a work permit, has significantly improved employment opportunities for unskilled third-country migrants. The number of green card holders (Daueraufenthaltskarte) reached 3,500 by mid-2009 (2,500 in mid-2006). However, one year after the introduction of the green card system the quota for seasonal workers from abroad had to be reduced. This was a reaction to the increase in unemployment which resulted from the substantial supply increases in the low skill segment, as seasonal work represents also an employment option for resident migrants. One has to acknowledge, however, that easy access to seasonal workers from abroad within the frame of a large quota contributes to reducing clandestine work, particularly if the season is short (harvesting) and if traditional personal connections are the basis for recruitment.

Work Permit

As free mobility of EU-citizens and family reunification are an increasing source of population growth, the numbers of third-country nationals admitted through the quota system are limited. For 2009 the total quota for third-country nationals was

⁴ Law on humanitarian residence (NAG 2005).

set at 8,145 places, about the same as in 2008. From 2003 onwards, only highly skilled third-country nationals may settle in Austria, while persons with lower skills are restricted to temporary work contracts. Highly skilled workers may enter on the basis of an employer nomination scheme, if scarcity of their skills can be documented. Additionally required are monthly gross earnings equal to or above 60 per cent of the social security contribution ceiling. This represents a barrier for entry into the labour market of third-country Austrian University graduates since the entry-level salaries are usually below this threshold.

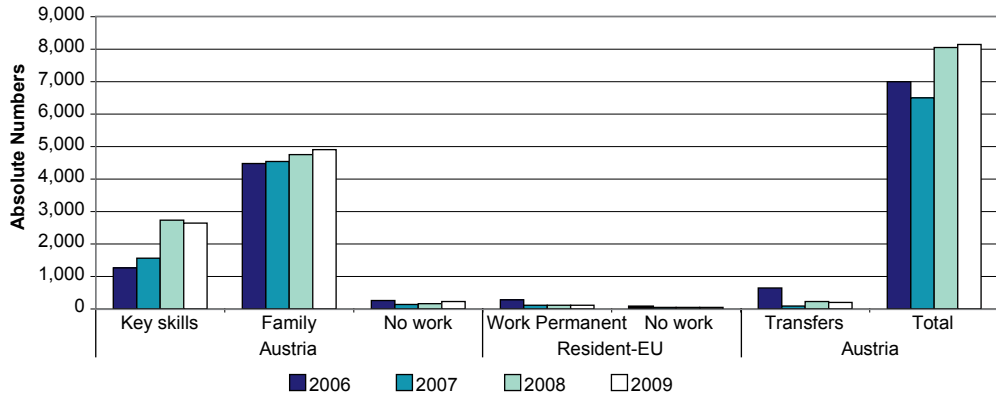
Quota System

Apart from family reunification of third-country nationals with family members from third countries, an annual quota is fixed for highly skilled third-country migrants (Schlüsselarbeitskraft). Family reunification (Familiennachzug) quotas only apply to citizens of third countries who are residing in Austria on the basis of a quota. One may distinguish five types of quotas (NAG 2005):

- Highly skilled workers (§§2/5 and 12/8 AuslBG and § 41 NAG), their partners and dependent children (§46/3 NAG); for 2009 the inflow quota was fixed at 2,700, the same level as in 2008. The applications declined somewhat in 2008 and took a proper dip in 2009 (-37%) for both self-employed and salaried skilled migrants.
- Third-country nationals who are permanent residents in another EU country and who want to come to Austria for the purpose of work (§8/1/3 NAG) or who want to settle in Austria without accessing the labour market (§49/1 NAG). This is a new quota in the revised residence law of 2005 and has been applied for the first time in 2006. In 2009 just as in the previous three years, only some 20 people entered Austria under this category.
- Family members of third-country citizens (§46/4 NAG): the inflow quota for 2009 was 4,900, a slight rise over 2008 (4,755). This continues to be a rather tight cap for family reunification but does not seem to lead to queuing.
- Third-country citizens who have a permanent residence permit as family members without access to work may have this title transformed to one allowing access to the labour market (§§47/4 and 56/3 NAG). This is a quota introduced in 2006, meant to facilitate labour market integration of family members of settlers, who have resided in Austria for less than five years (200 for 2009). So far the quota has on average sufficed to satisfy the demand, although some regions are very restrictive in this field.
- For third-country citizens and their family members who settle in Austria without wishing to enter the labour market (§§42 and 46 NAG) the regulations were amended in the new law requiring the proof of regular monthly income (double the minimum of unemployment benefits as regulated in §293 ASVG). The quota was raised to 230 in 2009 after 165 in 2008. In this category one tends to have more applications than the quota.

These regulations show that considerable coordination of migration and labour market integration policies has emerged over the last decade.

Figure 1: Quota system and annual cap by category, 2006-2009.



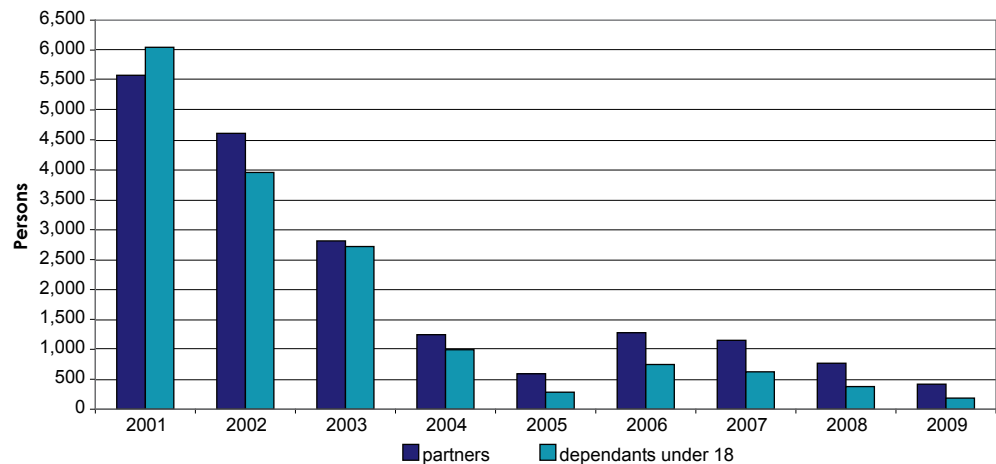
Source: Federal Ministry of the Interior.

Spouses and Dependants of Employment Permit Holders

Another aspect affecting the labour supply of unskilled labourers was the introduction of a minimum income requirement for family reunification (family sponsoring) in the new residence and settlement law (NAG 2005). It reduced the inflow of migrants with low earning capacity applying to join a partner in Austria that is living off welfare benefits.

Thus the coordination of migration policy with labour market policy, which started in the mid- to late 1990s, introduced a better understanding for the impact of immigration on labour supply and labour market mechanisms in the respective administrative disciplines. Another issue which was brought out with this agenda and resulted in amendments to migration law (NAG 2005), was the age cut-off for family reunification of children. Raising the age from the original 14 (until 2000) to 18 (2005) meant a significant improvement of the education and earnings opportunities of third-country youth in Austria.

Figure 2: Open requests for family reunification (queue abroad), 2001-2009



Source: Federal Ministry of the Interior.

The Labour Market Service (LMS) has the discretionary power to grant access to the labour market to those family members who have not yet resided the required length of time in Austria to access the labour market without prior labour market testing.

Non-EEA Students and Graduates from the Austrian Universities

The Alien Law of July 2002 allowed third-country students to take up part-time employment, to help cover their living expenses. This amendment was not expected to and did not raise labour supply of migrant students, but tended to legalize their work. No exact numbers have come forward yet, as most of them are 'casual workers', who do not get full social security coverage.

The foreign residence law (NAG 2005) specifies that university graduates may convert their temporary residence permit to the one for high-skilled workers (Schlüsselarbeitskraft) outside any quota. The required wage threshold is however too high for the new market entrants and an amendment to this legislation is in preparation.

Institutional and Policy Framework for Integration

While the Federal Ministry of the Interior regulates the inflow and resident status of immigrants, the Federal Ministry of Labour and Social Affairs regulates access to the labour market (Foreign Worker Law – AuslBG). Apart from spelling out legal access rights to the labour market along immigration streams (temporary residence permits and settlement permits), integration policies focus on various groups of workers, especially marginalised groups. Austria does not make any distinction between migrants and natives in their labour market policy measures. The only specific instrument for migrant integration is the organisation and funding of German courses by the LMS. In addition, general integration policies are established in primary and adult education and in community services. Since 2008/2009 integration policies are coordinated by the Federal Ministry of the Interior, which proposed a National Action Plan on Integration (2009).⁵

Family members or asylum seekers and refugees are in need of labour market integration assistance beyond just the right of free access to the labour market. The new immigration policy of 1992/93 regulated their inflow and residence rights, but their labour market integration needs were not addressed as the Ministry of Labour and respective social partners were not consulted. It was not until 1996 that the Federal Minister of the Interior made the first steps towards the coordination of migration and integration policies. This policy initiative is enshrined in law (Fremdengesetz 1997), attempting to promote the labour market integration of migrants, who had resided in Austria for a longer period of time.

Integration of migrants is facilitated by a labour market governance system which is based on the social partnership and complemented by a complex system of regional

⁵ Available at the Ministry website at <http://www.integration.at/>

institutions and integration policies on the communal level. Such a system, while ensuring continuity and stability, can accommodate the needs of regions and different ethnic groups and flexibly adapt to new challenges.

Federal laws tend to provide a general framework for integration, allowing the federal states (Bundesländer) to create integration measures suitable for the special circumstances of the region. The same applies to the law regulating the residence and settlement of foreigners (Niederlassungs- und Aufenthaltsgesetz - NAG 2005) – the states devise an institutional and budgetary framework to organise the integration of migrants. Due to the strong regional focus of policy formulation and implementation and the horizontal character of integration, comprising areas as diverse as education, employment, housing, health, social services, cultural activities and the like, little is known on the federal level about the funds spent on integration in the various regions, the instruments and measures implemented and their respective effectiveness.⁶

Vienna has been striving to develop a consistent model of integration based on the concept of diversity. The LMS is seen as key to promoting integration and the employability of migrants by including them, more than proportionately, in active labour market policy measures, in particular education and training, subsidised employment and the promotion of entrepreneurship.

Discrimination in Employment

Austria integrated the anti-discrimination guidelines of the EU (2000/43/EG 'Antirassismusrichtlinie') as well as the equal opportunity guidelines (2000/78/EG 'Gleich-behandlungsrichtlinie') into the national legislation relatively late, namely in 2004 (GIBG 2004). According to Krenn (2009) no reliable evaluation of the workplace promotion of migrants relative to natives has been undertaken yet, nor is this topic to be found on the public policy agenda.

The EU-MIDIS (2009) survey indicated that the lowest 12-month prevalence of discrimination⁷ was amongst former Yugoslavs in Austria (3%) and that the prevalence rate was higher for Turks (9% versus 30% in Germany). Some evidence suggests that the system of collective bargaining and the strong voice of workers through their work council are important contributors to the comparatively high degree of integration of migrants into the Austrian labour market and their limited (subjective feeling of) discrimination.

⁶ For the first attempt to collect information about integration measures in the various regions see *IOM - BMI* (2005).

⁷ Percentage of discriminated against at least once in any of the nine domains tested

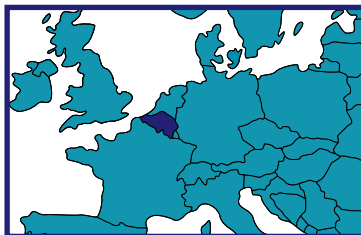
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BELGIUM

Marie Godin and Andrea Rea⁸



As of 2000, the Belgian migration policy has changed following a two-fold objective: on the one hand, sustainable integration of regular migrants by protecting their rights and combating discrimination; on the other hand, limiting the inflow of new migrants, by restricting family reunification and educational entry channels, as well as tightening the asylum policy. However, restrictive policies indirectly resulted in an increase in the numbers of irregular migrants in conditions of high labour demand in certain sectors (Rea, 2002).

Over the past years, the Belgian model has been characterized by flexibility, informal work and regularization programs. In Belgium, the first programme was carried out in 2000 (mainly for asylum-seekers), the second in 2009 (with a strong focus on migrant workers), and since 2000 several case-by-case regularizations have been conducted.

Institutional and Legal Framework for Admission and Employment

Belgium is a federal state characterised by multi-level governance. Therefore, also migration and integration policies follow this structure with a division of competences among the national, community and regional levels.

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Access to the labour market is based on a work permit system⁹ and is regulated by the Law from 30 April 1999.¹⁰ While the Federal State is in charge of admission policy, the Regions are responsible for identifying sectors with labour shortages and for granting work permits throughout the regional employment services.¹¹

Three types of work permits were defined by the legislator: permits A, B and C.

Work permit type A is valid for all employers and paid work within the entire territory of Belgium. It has no term and is granted to those who have worked in Belgium for four years under a permit type B. During the last decade a continued decrease in permits A had been observed in all the three Regions, partly due to the shift in Belgian integration policies towards promotion of naturalization as a tool for integration. Nowadays, after several years of residence in Belgium, foreigners tend to acquire Belgian nationality.

Work permit type B is valid for maximum one year (renewable) and is strictly connected to one specific job and employer. This permit requires a labour market test and is granted only when no Belgians or EU/EEA nationals are available to fill the vacant position.¹² Nationals from the countries that have a specific agreement with Belgium¹³ have priority for this type of work permit. Since 2005, and despite the economic crisis, the number of B type work permits has increased, especially in the Flemish Region. Highly qualified workers and Chief Executive Officers constitute an important group of migrants under this type of permit.

Since May 2006,¹⁴ a new and simplified procedure has been introduced for occupations with a labour shortage, only applicable to nationals of the new EU Member States.¹⁵ In this context, the Flemish Region, unlike Wallonia, tagged agriculture as a critical sector and this can explain the major 2006 inflow of EU-8 nationals in Flanders. Since January 2009, the labour market test is not required in order to fill occupations for which labour shortages have been identified, for persons having acquired the long-term resident status in another Member State of the EU.¹⁶

Work permit type C has been introduced in 2003 and has a maximum validity of 12 months (renewable). It is valid for all employers and sectors within the entire Belgian territory. This permit provides an opportunity for labour market access to foreigners who are staying temporarily and are not in Belgium for economic reasons, such as asylum seekers and foreign students. Before 2006, asylum seekers could request work permit

⁹ For further details: Rosenfeld M., et al. (eds), *Nouvelles migrations et nouveaux migrants en Belgique*, Gent, Academia Press, 2010.

¹⁰ See also Royal decree 9 June 1999. Some categories of foreigners are exempt from a work permit, such as refugees or the spouse of a Belgian citizen (art.2 of the law 9 June 1999).

¹¹ FOREM in Wallonia, ACTIRIS in Brussels, VDAB in Flanders. The German-speaking community can also issue work permits throughout the Arbeitsamt. In terms of demographic distribution, Flanders accounts for 60% of the national population, Wallonia and Brussels for 30% and 10% respectively.

¹² For a number of qualified positions, the labour market test is not required (see Art. 9 et Chapter 6 of the Royal Decree 09/06/1999). Some of these categories are: interns, researchers, directors, au-pairs, or visiting professors. Moreover, a recent Royal decree (12 September, 2007) facilitates access to the labour market for further categories of foreign workers, such as for researchers and specialized technicians.

¹³ International agreements with Algeria, ex-Yugoslavia, Morocco, Tunisia and Turkey.

¹⁴ April 24, 2006 – Royal Decree changing the Royal Decree of June 9, 1999 related to the execution of April 30, 1999 law on the occupations of foreign workers.

¹⁵ The same measures have been adopted for Romania and Bulgaria in 2007. The two countries, however, already benefited from a certain liberalization of rules for labour shortage occupations.

¹⁶ This change has been made on the basis of Directive 2003/109/EC.

C only when they were in the second phase of the procedure (called 'receivability'). After an important change in the Belgian asylum legislation¹⁷ the procedure consists of only one phase and both statuses (refugee and subsidiary protection) have to be covered in the asylum application. Since then, there has been a legal gap regarding the new procedure and access to work for asylum seekers until the introduction of a Royal Decree in 2009.¹⁸

Institutional and Policy Framework for Integration

Multi-level governance in Belgium led to the development of different regional public policies and active measures on integration. Inclusion of migrants into society is strongly focused on labour market integration. The main dimensions of integration policies are the following:

- Citizenship: the law on nationality has been changed several times over the years (1984, 1991, 1995, 1998, 2000 and 2006), finally establishing the principle of *jus soli* for children born in Belgium, and on the other hand, softening the conditions required for naturalization;
- Combating racism and discrimination;
- Tackling social disadvantage: this axis targets the whole population without a specific focus on migrants, and is based on prevention of and fight against social exclusion by improving professional education (counselling and training), providing social mediation and combating juvenile crime.

Since 2001, Flanders offers to new immigrants a program of civil integration (inburgeringbeleid) that comprises a Flemish language course and classes on public law. In the French-speaking part of the country, the politics of integration are instead tackled as part of indirect targeting politics (areas of priority action, areas of positive discrimination) based on social criteria (unemployment rate, number of tenants and others) and demographical criteria (percentage of foreigners).

Active Labour Market Measures

Since the end of 2006, the Minister of Economy and Employment has developed two approaches for promoting the labour market integration of migrants: for job seekers and workers who are vulnerable, or discriminated against; and for the companies (CEOOR Diversity Report, 2008). However, diversity plans do not refer to the same realities in the three regions, and no national consensus has been achieved on the concept of diversity, target-groups and measures to be taken.

¹⁷ Laws of the September 15, 2006 modifying the law passed on December 15, 1980 concerning access to Belgian territory, residence, establishment, and expulsion.

¹⁸ Royal Decree 22 December 2009 changing art.17 of the Royal Decree of June 9, 1999. Asylum seekers who submitted their application after May 31, 2007 and/or after six months of from the application if not informed of any decision by the *Commissaire général aux Réfugiés et aux Apatrides* (CGRA) are entitled to apply for permit C.

At the federal level, a Diversity and Equity Label was created in May 2005 aiming at promoting and implementing an active policy of diversity, with a focus on gender equality and better integration of ethnic minorities, disabled persons and the elderly.

In the Brussels-Capital Region, one of the first milestones in the implementation of diversity policies was the development of a non-binding Code of Diversity in Companies in 2005. In addition, the Territorial Pact for Employment was agreed upon by all social partners providing a framework for the implementation of diversity policy. Companies deciding to join this framework can benefit from co-funding of up to 10,000 euros for the implementation of initiatives combining four axes of discrimination (origin, age, gender and disability) and four areas of intervention (recruitment and casting, staff management, internal communication and external positioning).¹⁹

Government bodies and services pertaining to the Flemish government as well as organizations working in the field of socio-professional and professional training in Flanders are required to establish an annual plan in order to promote labour market integration of persons belonging to target groups identified by the authorities. The Flemish government and all social partners decided to commonly adopt target figures, for example: (1) agreement with the social partners in 2002, to create 2000 to 5000 additional jobs for non-EU nationals each year by 2010, (2) a positive overrepresentation of 40 per cent for ethnic minorities in reintegration pathways for jobseekers as agreed in the management contract with the Flemish Public Employment Service (VDAB) (Guy Van Gyes, 2009:5)

One of the best practices on labour integration is the Jobkannel project aimed at promoting labour market access for persons belonging to disadvantaged groups (disabled people, persons aged over 50 and migrants). This project was created in 2003 with the participation of the Flemish Chamber of Commerce and Industry (VOKA), the Flemish Confederation of Social Profit Enterprises (VCSPPO) and the Organization for the Self-employed and Small/Medium-sized Enterprises (UNIZO). Job consultants tackle the mismatch between supply and demand while various third parties (VDAB, temporary employment agencies, migrant associations) provide a database of candidates. The yearly objective of Jobkannel is to support 5,000 target group members in finding a job.

It is important to highlight that social compromise plays a crucial role in terms of labour issues both at the federal and at the regional level. Collective bargaining is highly institutionalized with the specific focus on anti-discrimination and diversity measures.

A recent study carried out by IDEA-Consult (2009)²⁰ on the temporary agency workers (TAW)²¹ provides some insight on the chances for disadvantaged workers (allochthones, low-skilled people, the disabled and people over 50) to migrate from

¹⁹ The person of foreign origin is defined, in this context, as one that is not (yet) a citizen of the European Union or who has at least one parent or two grandparents who are citizens of a State that is not (yet) a member of the European Union. The EU is still considered as the EU15. However, companies were not forced to adhere to the suggested definition.

²⁰ In terms of methodology, the relevance of this study lays on the creation of a database of 200,000 persons who were temporary workers in 2005. This group has been monitored during the three following years.

²¹ During the last 20 years, TAW industry has been experiencing strong growth in Belgium. In 2007, a number of 380,000 temporary agency workers were active in Belgium.

a temporary to a permanent job. The share of low-skilled workers (4 out of 10) and *allochthones* (12%) is especially high among temporary agency workers. The research suggests that the identified group at risk shows lower transition rate into permanent jobs than other jobseekers with experience in temporary agency jobs. Among the various categories considered, *allochthones* remain in temporary jobs for a longer period of time. However, after less than one year in a temporary agency job, *allochthones* have more chances to get a permanent job than those who were not employed by temporary agencies. As a result, the authors assert that temporary work agencies can serve as a springboard rather than as a trap.

Discrimination in Employment

One of the major steps towards protection of migrant rights has been the creation of the Centre for Equal Opportunities and Opposition against Racism (CEOOR) on 15 February 1993, an independent institution under the Federal Minister for Social Integration.²² The Centre is mainly aimed at promoting and monitoring measures against discrimination as a cornerstone of integration policies in Belgium, both at the federal and regional levels. Among the numerous projects carried out by CEOOR, in 2004 the Centre launched a website (<http://www.newintown.be>) providing newcomers with information on various areas, such as employment, permits of stay, training, accommodation, education, health, and social security.

Another important improvement in combating discrimination has been the transposition into Belgian law at the federal level of two EU directives resulting in the adoption of a law on discrimination on 25 February 2003, recently replaced with a new Anti-discrimination Law on 10 May 2007.

Despite the lack of empirical data, qualitative research tends to converge on the persistency of discrimination especially for some groups of migrants in various areas such as employment and housing. At the international level, the recent European Union Minorities and Discrimination Survey (EU-MIDIS, 2009)²³ conducted by the Fundamental Rights Agency (FRA), has analyzed two main ethnic minority groups in Belgium: residents from North Africa (Algeria, Egypt, Libya, Morocco, Sudan, Tunisia, and Western Sahara) and those with a Turkish background.²⁴ Results show that 76 per cent of citizens with North-African backgrounds, and some 69 per cent of those with a Turkish background considered that discrimination on the basis of 'ethnic or migrant origin' is quite high in the country.

In March 2009, the Centre for Equal Opportunities and Opposition against Racism (CEOOR) has conducted a survey²⁵ with the aim of exploring the level of tolerance of ethnic minorities among Belgians. The results of this poll are particularly worrisome with some 31 per cent of the interviewees claiming not to tolerate specific ethnic

²² Law of 15 February 1993.

²³ http://fra.europa.eu/fraWebsite/eu-midis/eumidis_output_en.htm

²⁴ The survey sampled men and women aged 16 years old and older who self-identified as belonging to one of the immigrant, national minority or ethnic minority groups. The research took place in two cities (Brussels and Antwerp) and was carried out between April and July 2008.

²⁵ <http://www.diversite.be/>

minorities (from Maghreb region, Turkey, Sub-Saharan Africa and Eastern Europe). Even more troubling is the proliferation of evidently racist opinions with some 60 per cent claiming that, in certain circumstances, racist behaviour is justified. However, one of the main conclusions made by CEOOR is that contacts between people of different ethnic origin increase overall tolerance levels. The best example is Brussels City, where perceptions regarding foreigners are the least negative.

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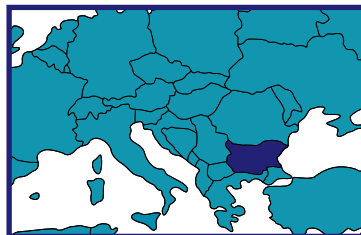
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BULGARIA

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Migration is gaining more prominence in the Bulgarian social and economic policy discourse in the light of slowly increasing immigration and transit migration. Since 2004, Bulgaria implemented a new policy in the field of migration and integration of third-country nationals. A number of high-level and expert working groups were established as of 2004²⁷ composed of representatives from all institutions responsible for migration and integration issues, academia, and civil society.

In 2008, the government adopted the National Strategy for Migration and Integration of the Republic of Bulgaria 2008-2015 and the annual action plan for the implementation of the strategy. It outlines two strategic goals:

- Facilitating the return of Bulgarian nationals, and the immigration of foreigners of Bulgarian origin;
- Implementation of adequate policy on the integration of foreigners and the application of efficient control of migration processes.

Further to the attempts for liberalization of the employment regime for third country nationals by the Bulgarian employers in 2007-2008, some social partners advocated for certain protectionism in the conditions of recession. A proposal was submitted in the second half of 2009 for optimizing work permit procedures, but it was not adopted by the Council of Ministers.

²⁶ Ilyana Derilova-Stoykova is Chief of the IOM Mission in Bulgaria, Nikola Kondev is an independent consultant.
²⁷ Such as the Interdepartmental Working Group on Migration and Integration (2004) and the High Level Working Group for the Preparation of Guidelines for the National Strategy Development (2007).

Institutional and Legal Framework for Admission and Employment

The Ministry of the Interior is the main agency responsible for the admission of foreigners, while the Ministry of Labour and Social Policy (Employment Agency with its regional offices) regulates their employment. In addition, the Bulgarian National Council on Labour Migration was established in 2008 to monitor and coordinate the implementation of the adopted Strategy, and develop annual action plans on labour migration.²⁸ The Council has a consultative function in the decision-making process on the full spectrum of migration issues, including the access of foreigners to the Bulgarian labour market.

Recently, the Foreigners in the Republic of Bulgaria Act (2009) has been adopted with the aim of implementing the Regulation of the Council (EC) No. 1030/2002 of 13 June 2002 on the uniform format for residence permits for third-country nationals. Bulgaria has not introduced quotas for migrant workers.²⁹

As a general rule, a third-country national needs a visa to enter the country unless he or she holds the nationality of a country exempt from this requirement. It is not possible to switch from short-term to long-term stay status, or to another justification for residence without first returning to the country of origin and re-applying for the respective permit.³⁰

According to the Foreigners in the Republic of Bulgaria Act, foreigners with a permanent residence in the Republic of Bulgaria are allowed to seek employment under the terms and procedures established for Bulgarian citizens, and therefore do not need a work permit.³¹ On the other hand, non-EU migrants eligible for short-term or temporary stay need to obtain a work permit from the Ministry of Labour and Social Policy, and are only allowed to carry out activities under a labour contract. The work permit is valid for a maximum of one year (renewable twice), and serves as a basis for a residence permit for the length of the employment.³² Additionally, the work permit is strictly linked to the employer and the specific period of time.

Prior to the foreigner's arrival, the employer presents a work permit application to the Employment Agency. The employer has to prove that s/he was actively searching for the necessary specialist for at least 15 days,³³ and there were no Bulgarian citizens available, nor permanently residing foreigners or other foreigners with similar rights who possess the required profession, specialization or qualification; and there was no alternate possibility for training the necessary personnel. The fee for the

²⁸ NSMI is chaired by the Minister of Labour and Social Policy and consists of deputy ministers of relevant ministries, representatives of local authorities, leaders of relevant social partners (employers and employees bodies), NGOs and academic society representatives.

²⁹ However, there is a general framework mechanism elaborated by the National Council on Labour Migration that can be used in order to meet arising labour market needs and/or shortages.

³⁰ Long-term stay can be: 1) continued for an authorized period up to one year; 2) permanent for an indefinite period.

³¹ Other categories that do not require work permits are: refugees; persons holding a permit on humanitarian reason; those covered from special intergovernmental agreement.

³² There are no separate residence and work permits for seasonal workers.

³³ Including through the employment offices of the Employment Agency and announcements in the national media.

issuance and prolongation of a work permit is BGN 600 (around EUR 300). Any refusal to grant a work permit can be appealed in accordance with the Administrative Procedure Code.

Admission on the basis of self-employment is subject to a one year permit (renewable) issued by the Employment Agency.³⁴ The application and a corresponding business plan should be submitted from the country of origin. Depending on the labour market or general economic conditions, the Minister for Labour and Social Policy can introduce temporary limitations on self-employed activities either nationally or within a specific region.

Permits for seasonal work can be issued at a reduced fee for up to six months in one calendar year. Finally, family migrants may obtain a work permit without delays following the family reunification.

Institutional and Policy Framework for Integration

The Directorate for the Freedom of Movement of Persons, Migration and Integration of the Ministry of Labour and Social Policy is in charge of the policy on integration of migrants.

Foreigners with temporary residence status mostly benefit from the services, such as language courses provided by NGOs. After the launch of the European Integration Fund (EIF) in 2009, various organizations have created centres for counselling and guidance for newly-arrived immigrants, including on labour market inclusion. Projects financed in the framework of 2007 and 2008 EIF Annual Programmes in Bulgaria support among others: elaboration of analyses on the migration situation and trends in Bulgaria, which reflect on the subsequent needs for integration measures; language and civic orientation courses; review and analyses of legislation in the field of integration.

Active Labour Market Measures

Only third-country nationals with permanent residence permits and refugees are allowed to participate in active labour market measures on equal terms with Bulgarian citizens, while the non-EU migrants with work permits cannot benefit from these services by the Employment Agency and the Employment Offices. Migrants are only included in general measures on the basis of their social and personal disadvantages and not as migrants. No statistics are available on their participation in general labour market measures.

³⁴ The Employment Agency has one month to decide on the application. In case of a positive decision, a long-term visa can be issued and a temporary resident permit.

Discrimination in Employment

The Bulgarian legislation and national policy in the field of anti-discrimination is implemented mainly by the Commission for Anti-discrimination that aims to protect any persons in the country from direct or indirect discrimination based, among other categories on race, ethnic origin, nationality, or religion. Protection applies equally to Bulgarian citizens and third-country nationals. Specific data on migrant discrimination is not indicated in the statistics of the Commission.

As women in general register a low level of integration in the labour market, especially women from third countries, gender equality is considered as a priority in employment policy. The main directions of the national policy on promotion of gender equality are: 1) elimination of inequality on the labour market; 2) encouraging the balance between family and professional obligations between the spouses;³⁵ 3) overcoming segmentation on the labour market including reduction of the gender pay gap.³⁶

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³⁵ Some data: 68 per cent of the persons who quit their job due to personal or family reasons are women; 17.5 per cent of the women outside the labour force have the wish to work but are incapable to do so due to personal and family reasons compared to only 6.6 per cent of the men; approximately 66 per cent of the unpaid family workers are women and their number is more than two times higher than the men.

³⁶ According to 2006 data the average wage of the women is approximately 18 per cent lower than men. One of the reasons is the fact that significant share of the women works in sectors of the economy - healthcare, social activities, education, trade- where the average salaries are low.

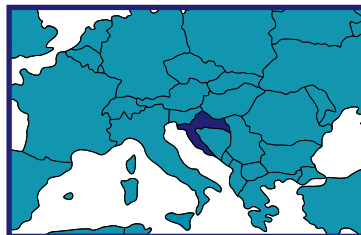
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CROATIA

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Institutional and Legal Framework for Admission and Employment

The quota system for issuing work and business permits is based on the labour market projections for the following year, but is not completely flexible towards market needs and sudden changes,³⁸ as to some extent it is reflected by insufficient permit allocations in some years and persistent irregular employment (see Part I). Quotas are defined in coordination with the Croatian Economic Chamber, Croatian Trades and Crafts Chamber, Croatian Employment Service (CES) and the social partners. Croatian labour unions are strongly opposed to immigration. Representatives of all five union federations have consistently demanded reduction of yearly work permits quotas, claiming there were sufficient Croatian nationals with the required qualifications on the labour market.

Very low quotas for highly educated experts in the fields of natural and technical sciences indicate the discrepancy between migration policy and the actual labour market needs. For example, Obadic (2008b: 108) established that experts in the fields of mathematics, physics, engineering, information sciences, construction engineering and medicine find employment within a very short period of time after they register with the CES. Declared employer needs for employees with these educational profiles are, in some fields, up to five times higher than the number of the registered unemployed persons. Given low quotas for work permits for such occupations, further possibilities remain for the harmonization of immigration policy with the actual labour market needs.

³⁷ Zeljko Pavic is director of Audeo (marketing research and public polling agency).

³⁸ Nevertheless, quotas can be changed during the year: in 2007 the Parliament acted upon a Government proposal and changed quotas that were set earlier that year.

National migration policy does not regulate labour market needs only through the quota system. Namely, the *Aliens Act of 2007* (Article 119) lists migrant categories that are exempt from the quota system (although they still need a work or business permit), and who are eligible for a temporary residence permit provided that they will stay in Croatia for longer than 30 days. Those categories are as follows:

- Daily commuters employed in Croatia on the condition of reciprocity;
- Key personnel,³⁹ workers and members of their families whose status is regulated by the Stabilisation and Association Pact between Croatia and European Union;
- Key personnel in companies or their branches in Croatia;
- Intra-company transfers, as defined by the Protocol of Joining of the Republic of Croatia to the Marrakesh Treaty Establishing World Trade Organization;
- Teachers employed in educational institutions, which conduct classes on national minority languages and scripts;
- Professional athletes or workers in the sports sector employed in Croatia and possessing a valid work contract;
- Foreign workers who have work or business permits legally based on international contracts;
- Foreign nationals employed in NGOs that are registered as foreign NGOs in Croatia and at least three other countries;
- Foreign nationals who are members of boards of foreign trusts or subsidiaries of foreign trusts and foundations registered in Croatia.⁴⁰

Additional adjustment to labour market needs is provided by a legal opportunity for the following foreign workers to be employed for a limited time without work or business permit (*Aliens Act*, Article 139):⁴¹

- migrants who can work for only up to 30 days within a year without work and business permits (sports athletes, music authors or performers);
- migrants who can work for up to 60 days (authors and performers in the theatre, film or television arts);
- migrants who can work for up to 90 days (jobs linked to servicing and assembling of equipment, experts in the field of culture heritage and so on).

Temporary residence permit is issued for the same period as the work permit. Work permits are issued for a limited time period up to one year, and only in exceptional cases for up to two years. Seasonal work permits are issued for a period equal to the planned duration of seasonal jobs, but for a maximum of six months per year.⁴² The inability to extend the work permit implies that temporary residence also expires.

³⁹ Key personnel is defined as employees in managerial jobs, heads of departments and managers with authority to hire or lay off employees or give recommendations in that regard (*Aliens Act*, Article 120).

⁴⁰ Migrant groups under the articles 8 and 9 are introduced in the Act on Corrections and Amendments of Aliens Act (Official Gazette, 36/2009, Article 38).

⁴¹ Act on Corrections and Amendments of Aliens Act (Official Gazette, 36/2009, Article 44).

⁴² Aliens Act (2007), Article 125.

However, *Aliens Act* (Parliament of the Republic of Croatia, 2007b) gives migrants with temporary residence who are made redundant without own fault a right to stay in Croatia as long as their temporary residence permit does not expire. In this period a migrant can try to find another job and obtain a work permit linked to another employer provided that the annual quota is not filled. Work permit extensions are possible and not limited, but they are still dependent on the quota system. Lower quotas for a certain year and occupation can lead to a situation where a migrant cannot extend a work permit despite his/her employer being willing to offer a job.

After a five-year temporary residence in Croatia a migrant can apply for a permanent residence permit which removes the requirement to possess a work or a business permit in order to be legally employed. Among other requirements, knowledge of the Croatian language and Latin script is a prerequisite for obtaining a permanent residence permit.⁴³

A temporary residence permit with the aim of family reunification can be granted to a foreign national who is a close family member of the other foreign national with a permanent residence permit, a temporary residence permit for at least two years and a valid permit for the next year, or a temporary permit for scientific research or the asylum seeker status (*Aliens Act*, Article 56). Family members who are granted temporary residence permits have equal labour and education rights as persons whose legal status enabled the issuance of a temporary residence permit. If the sponsor has a permanent residence permit, then a person in possession of a temporary residence permit through family reunification has the right to work without a work or business permit.⁴⁴ A foreign national who possessed temporary residence permits through family reunification for four years without interruptions can be granted autonomous residence.⁴⁵

An asylum-seeker is granted the right to work one year after submitting their asylum application as long as the procedure had not yet been completed (*Asylum Act*, Article 36). Refugees have the right to access the labour market without any restrictions, as they are exempt from work permit obligations.

The vague definition of a business permit had brought uneven implementation by the state authorities. The legal clause which enabled workers to get business permits if they provided services on behalf of foreign employers often led to abuse and to the issuing of business permits to migrant workers, especially in the construction sector (*Parliament of the Republic of Croatia*, 2007a). In practice, owners of Croatian companies founded their daughter companies in neighbouring countries (mostly in Bosnia and Herzegovina) with the sole purpose of employing workers in Croatia with business permits.

With the enactment of the *By-law on the Procedural Consent of Issuing Business Permits to Aliens* (*Parliament of the Republic of Croatia*, 2009), a foreigner who is an owner of at least a 51 per cent share in a Croatian company has to fulfil certain criteria in order to obtain a business permit. Namely, the company has to increase economic activities in Croatia, introduce new production methods, new equipment and modern

⁴³ *Aliens Act*, article 83.

⁴⁴ *Aliens Act*, article 60.

⁴⁵ *Aliens Act*, article 61.

technology, and open new jobs and employ native labour force. Conditions for issuing business permits to workers who provide services on behalf of foreign companies require that the service provider (worker) is employed by a foreign employer and has the appropriate qualifications, while the foreign employer has to have a contract with a Croatian company. EU nationals only have to be employed by a foreign company, and other conditions do not apply in their case.

Croatia signed bilateral international treaties on social security with about twenty countries, including countries of origin such as Bosnia and Herzegovina and Serbia. The Law on Confirmation of Social Security Treaty between Republic of Croatia and Bosnia and Herzegovina⁴⁶ (in force since 2001) enables the portability of benefits for citizens of both countries, and covers unemployment benefits, the recognition of pension years, the possibility of remaining in the health and pension system of the country of origin for up to 24 months, and the mutual acknowledgement of work time in hazardous working conditions that could lead to professional diseases. Relatively similar clauses exist in the bilateral agreements that cover nationals of Serbia and of Montenegro. If a foreign worker comes from a country with which Croatia does not have a bilateral international treaty on social security, the employer is obligated to register the worker in health and pension security institutions in due time.

Institutional and Policy Framework for Integration

There is no clearly defined official policy on migrant integration. However, *Migration Policy for the Year 2007/2008*⁴⁷ serves as the basic official document on migration policy recognizing the importance of integration, and stating the future need “to implement projects through cooperation of all governmental and non-governmental bodies and organizations which will enable aliens to learn the Croatian language, organize classes and other educational programs for further education and professional advancement, inform aliens of their rights and duties, introduce Croatian history, culture and its constitutional framework, all in order to include them faster into the cultural and economic life of the Republic of Croatia.” (Parliament of the Republic of Croatia, 2007a)

Only two out of the envisaged seventeen measures of migration policy in this document could in a broader sense be perceived as measures on migrant integration. One of them relates to an obligation of Croatian language and Latin script competences as a prerequisite for granting permanent residence or Croatian citizenship, which has been incorporated into the current legislation (Citizenship Act and Aliens Act⁴⁸). The other measure refers to the broadening of public awareness on the causes and consequences of migration in order to reduce xenophobia, prejudice and negative attitudes towards foreigners. For this purpose, the Ministry of the Interior as the implementing agency held a series of information events. However, almost all of these activities are related to asylum seekers and not to migrants in general.

⁴⁶ Official Gazette of the Republic of Croatia, International Contracts, 3/2001

⁴⁷ Here should be noted that migration policy for the subsequent years (2009/10) was not adopted in the Parliament notwithstanding the legal obligation (Aliens Act) to do so.

⁴⁸ According to the Corrections and Amendments of Aliens Act (Article 27, Official Gazette 36/2009) foreign nationals older than 60 years are exempt from this obligation provided that they are not employed in Croatia.

As part of harmonization of the Croatian laws with the EU *acquis* and as part of the Pre-Accession Strategy for the Republic of Croatia in the fields of employment and social inclusion, a joint memorandum with the European Commission for priorities of the employment policy (*Joint Assessment of the Employment Policy Priorities of the Republic of Croatia – JAP*) was ratified in May 2008. On the basis of this document, the National Plan for the Stimulation of Employment for 2009 and 2010 was developed⁴⁹ (NPSE). Migrants are not mentioned in this document, except for asylum seekers, refugees and victims of human trafficking who are indicated as one of the target groups for the following three programmes: 1) co-financing of employment of unemployed persons from the register of the CES; 2) financing of education according to needs of the labour market and 3) employment of particular groups in public works programmes. According to the CES in 2008 only one asylum-seeker was involved in the programme of employment co-financing as well as in the program of education financing.

The Croatian Employment Service does not provide consultations or mediation services to migrants with temporary residence permits. There are no official introduction programmes aiming to facilitate adjustment of migrants to labour market needs. There are, however, introduction programmes for asylum seekers, refugees and foreigners under temporary or subsidiary protection that allow for easier access to the Croatian educational system, which could reflect on their position on the labour market. Refugees also have the right to training, professional retraining and specialization under same conditions as Croatian citizens. However, the number of asylum seekers, refugees and the other two migrant categories which have been included in the introduction programmes up to this moment is unknown.

As part of the project *Capacity Building, Information and Awareness Raising towards Promoting Orderly Migrations in the Western Balkans*,⁵⁰ CES and IOM established the first Migration Information Centre (MIC) in Croatia, which is now a part of CES (Zagreb Administrative Unit). In March 2010 another Migration Information Centre was opened in Split; new centres will be opened in Osijek and Rijeka in the near future.⁵¹ MIC⁵² does not provide mediation services, issue visas and work permits nor provide consular services. The main role of the centres is to provide potential migrants (both emigrants and immigrants) with information regarding legal and practical issues in relation to migration and to redirect migrants to appropriate national authorities. For the moment, Croatian nationals interested in emigration constitute the majority of MIC clients, while immigrants seek their services on a much smaller scale. Official statistics⁵³ indicate that from June 2008 to November 2009 only 8.4 per cent of 829 MIC Croatia clients were immigrants. Croatian employers interested in hiring foreign workers very rarely used MIC services.⁵⁴

⁴⁹ <http://www.mingorp.hr/default.aspx?id=1599>

⁵⁰ http://www.ilo.org/sapfl/Projects/lang--en/WCMS_100976/index.htm

⁵¹ Funded by the European Union (AENEAS 2006 Programme) and co-funded by the Swiss Federal Office for Migration, the German Federal Office for Migration and Refugees, the Government of Liechtenstein and the Italian Ministry for Foreign Affairs/Italian Cooperation

⁵² <http://www.migrantservicecentres.org/>

⁵³ Idem.

⁵⁴ Flinterman (2009); the countries included in the analysis were Albania, Bosnia and Herzegovina, Croatia, The Former Yugoslav Republic of Macedonia, Serbia, Montenegro and Kosovo/UNSCR 1244.

Discrimination in Employment

The *Law on the Prevention of Discrimination*⁵⁵ forbids and punishes discrimination based on, among other factors, race, ethnic identity, skin colour, language, religion, and national or social origin. Labour rights that are guaranteed to migrants according to the *Aliens Act*⁵⁶ especially apply to:

- maximum working hours and minimum duration of work breaks;
- minimum duration of holidays;
- minimum wages, as well as overtime payment;
- healthy working conditions and work safety;
- special protection enjoyed by women, pregnant women, and under age workers,
- a ban on discrimination.

According to the Ombudsman report for 2008,⁵⁷ there were 56 complaints related to the legal status, naturalization, and other rights regulated by the *Aliens Act*, such as procedures for issuing a temporary residence permit. The report does not differentiate between specific status rights, nor provides information on complaints by foreign nationals on grounds other than those stated in the *Aliens Act*.

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CYPRUS

Nicos Trimikliniotis⁵⁸



Institutional and Policy Framework for Admission and Employment

Cyprus' path towards the EU accession influenced the opening of the labour market to foreigners by the government. With the change of policy in 1990, the criteria for granting permits were extended and a procedure was outlined for employers to recruit staff from abroad. The eventually failed assumption was that employment of migrant workers would be short-term, temporary, restricted to specific sectors and to specific employers.

A number of institutional devices that were designed as part of the 1990 policy have resulted in an institutional framework with the following characteristics:

- Work permits are granted on the condition that each migrant worker is attached to a specific employer without the freedom to change jobs unless the original employer consents to such change.⁵⁹
- Work permits are granted on an annual basis and with a maximum period of initially six and then four years.
- Evidence of non-compliance by employers with labour laws is abundantly recorded in Reports by the European Commission against Racism and Intolerance (ECRI 2001; 2006).

Essentially, there is a quota system for each sector and for the country as a whole. For instance, there is a compulsory quota of 30 per cent for all businesses, and a labour

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⁵⁹ An exception applies to female migrant domestic workers who are not allowed to change employer during the first year of their employment in Cyprus, even if the employer consents to it.

market test is necessary. As a rule, work permits to third-country nationals are issued for specific sectors of the economy where there is little or no presence of Cypriot workers. The work permit allows foreign workers the right to change employer after the first year but within the same occupation and sector.

The biggest obstacle in access to health and social care services for migrants is the requirement for private medical insurance by employers in order to secure a work permit; very often the employer would fail to renew or may even cancel the policy. As a result, migrants sometimes are not being allowed access to the health services.

Work permits are granted to asylum-seekers and foreign university students who have been studying in Cyprus in three year courses and may commence work only upon completion of their first year of study.

In 2007, Directive 2003/109/EC was transposed by amending the existing Aliens and Immigration Law. The period of five years of lawful residence, required by the law as a pre-condition for granting the long-term resident status is not deemed to have been interrupted if the applicant was absent from Cyprus for a period no longer than six consecutive months or for a total of a maximum ten non-consecutive months.⁶⁰ Although the original transposition of the Directive did not include any language requirements, under trade union pressure, a stringent Greek language requirement was introduced through an amendment to the Aliens and Immigration Law carried out in 2009.⁶¹

Policies and practices governing migrant workers from the moment of entry, their working conditions, legal and social rights, are set out in the agreement between the Cypriot government, the employers' organisations (OEV and KEVE) and the workers' unions (PEO, SEK, DEOK and some sectional unions).⁶² The criteria, originally compiled in 1991⁶³ and reaffirmed in 2004, stipulate that (third-country) migrant workers are granted the same employment terms and all other rights enjoyed by Cypriot workers, derived from existing collective agreements and social security schemes.

Institutional and Policy Framework for Integration

The overall coordination of the integration policy is in the hands of the Ministry of the Interior, which coordinates the development of an inter-departmental policy.⁶⁴ In June 2010 the Ministry of the Interior organized stakeholder consultations on the previously circulated Action Plan for the Integration of Immigrants Lawfully Residing in Cyprus 2010-2012. Once finalized, the plan will be presented to the Council of Ministers for approval and adoption around October 2010. The plan outlines the parameters of

⁶⁰ Cyprus/Aliens and Immigration Law, as amended by Law 8(I)/2007, article 18H(2).

⁶¹ Cyprus/Aliens and Immigration Law, as amended by Law 143(I)/2009, article 3(A).

⁶² PEO is a left-wing union and stands for Pan-Cyprian Federation of Labour. Together with the right-wing SEK (Confederation of Cypriot Labour) they are the largest trade unions. DEOK is a small Democratic Labour Federation of Cyprus.

⁶³ Circular of the Department of Labour of the Ministry of Labour and Social Insurance ref.T.E.48/83 dated 02.12.1991.

⁶⁴ For a discussion on the current debates on integration and migration see Trimikliniotis 2009a; 2010a and Trimikliniotis and Souroulla 2006a; 2006b; 2010.

integration policy⁶⁵ and consists of a comprehensive plan of support and information to the third-country nationals who are lawfully residing in Cyprus. Also the Action Plan will involve and/or activate local governments and civil society.

In practice, the only substantial integration-related measure implemented so far was the commissioning by the Ministry of the Interior of a study to develop integration indicators to allow for benchmarking of the current situation and the development of the National Action Plan on Integration. However the former did not have a significant bearing on the latter, as stakeholders noted during the abovementioned consultations.

No measures have been adopted so far to encourage or even address the labour market integration of migrants.

Discrimination in Employment

Various reports and studies illustrate the seriousness of the problem of racial and ethnic discrimination in employment and the labour market. The *Third ECRI Report* published in May 2006 confirms that third-country nationals continue to be among the most vulnerable groups despite the institutional developments brought about by Cyprus' EU accession.

Research conducted in the last ten years reached similar conclusions, illustrating how racial discrimination was endemic in the media,⁶⁶ in employment,⁶⁷ in education⁶⁸ and among the youth.

Upon EU accession in 2004, the Ombudsman's office was appointed⁶⁹ as the national Equality Body, in compliance with Article 13 of the Directive (2000/43/EC). The Cyprus Equality Body has ruled that the treatment of foreign domestic workers is discriminatory on the ground of race or ethnic origin, noting their low salaries⁷⁰ compared to Cypriot workers and highlighting indirect discrimination. The complaint under investigation concerned the restriction of the right to join a trade union which was found in the standard employment contract supplied by the Ministry of Labour that all domestic workers were forced to sign.⁷¹ In the explanation of this decision, the Equality Body also made reference to the low salaries paid to migrant domestic

⁶⁵ In Greek "Εθνική Πολιτική Ένταξης" i.e. national policy for inclusion, which is the state of art in the Greek language terms, rather than the term 'ensomatosi' reflecting the current debates on the subject amongst Greek scholars (see Pavlou and Christopoulos for the state of the art Greek debates on the subject).

⁶⁶ See for instance Trimikliniotis (1999); Trimikliniotis 2005b; Trimikliniotis and Demetriou 2005; 2007; Charakis 2005 etc.

⁶⁷ See RAXEN National Data Collection Reports for Cyprus (2004-2008); Trimikliniotis (1999) Trimikliniotis and Pantelides (2003: 121-148); Trimikliniotis (2004: 53-86); Trimikliniotis and Demetriou (2006; 2007; 2008).

⁶⁸ See RAXEN Country Reports (2004-2008); N. Trimikliniotis and C. Demetriou, C. (2006); Papamichael (2008).

⁶⁹ By virtue of the Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(I)/2004 (19.03.2004).

⁷⁰ Calculated at CYP0.82 per hour, contrasted with CYP4-Cyp5 per hour for Cypriots carrying out the same work: Cyprus Ombudswoman Report File No.A.K.I 2/2005, dated 4.11.2005, page 4.

⁷¹ Cyprus Ombudsman Report File No.A.K.I 2/2005, dated 4.11.2005.

workers compared to Cypriot workers, pointing out that there were about 18,000 migrant female domestic workers working in the country at the time (in 2005).⁷²

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⁷² This figure was based on the data of the Ministry of Interior, according to which the number of migrant female domestic workers in Cyprus in 2003 was 17.955.

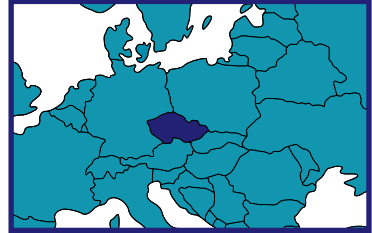
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CZECH REPUBLIC

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Selection and admission policies continue to have a very significant impact on the speed and conditions of labour market entry, labour matching and socio-economic integration of migrants. There is a broad consensus that the Czech Republic could use the positive potential of migration more effectively if certain challenges were addressed in the admission system.

In particular, potential migrants experience serious difficulties in accessing the labour market without the assistance of intermediaries. The current system encourages the role of both formal and informal recruiters, which has led to problems with migrant exploitation by some employment agencies as well as irregular employment.

The Alien Act of January 2000 abolished the possibility for migrants to upgrade to a work permit from a short-term tourist visa. This liberal provision was widely used in 1990s; however since 2000 applicants must apply for visas outside the country upon obtaining the work permit.⁷⁴

Institutional and Legal Framework for Admission and Employment

Work permits are issued by the Labour Office which is tasked with ensuring the Community preference in recruitment and assessing the economic need of attracting foreign workers. The Labour Office takes a decision within a maximum of 30 days (60 in exceptionally complicated cases). The permit is issued for the period of the work contract, but for no more than two years, and is tied to a concrete job. The permit is cancelled in case the job is terminated prior the end of contract thus adding to the

⁷³ Jan Schroth is consultant at IOM Prague.

⁷⁴ They can apply for visa only with application number for the work permit – both periods can run concurrently.

uncertainty of a migrant on the labour market. Applying for a new permit is allowed, but remains time-consuming and administratively burdensome.

As of January 2009 in a limited number of cases a protection period of two months is provided for the purpose of job-seeking to the migrant who became unemployed. The protection period is granted, for example, when the job is terminated by mutual agreement. It cannot be granted in the first year of work after arrival in the Czech Republic.

Applications for employment as well as other long-term visas (for a stay over 90 days) are processed by the Alien Police and delivered by Czech consulates abroad within 90 days and in exceptionally complicated cases within 120 days of the application submission date. This provision has been criticized by both employers and workers for being time-consuming and inadequate to labour market needs.

Persons entering on family reunification have the right to be employed on the same rights as their sponsor.

The current legislative regulations on business visas and residence permits are less strict in comparison to those on employment visas. The foreigners must be listed in the trade register⁷⁵ and are obliged to maintain a more complicated double-entry bookkeeping system. In the worsening labour market conditions some migrants pursue trade licenses as a more stable strategy to ensure their legality of stay.

In 2003-2008 the government carried out a pilot project on the Selection of Qualified Foreign Workers.⁷⁶ Foreigners from twelve selected countries⁷⁷ and graduate foreign students from the Czech universities and secondary schools regardless of country of origin meeting the point-system admission criteria were admitted to facilitated application for permanent residence.⁷⁸ However, in comparison to the overall migration inflow, the total number of applicants was quite low (1,083 in total), possibly due to the precondition to find a job and to obtain a long-term employment visa before entering the country, and the lack of support services offered to potential migrants.

After 2008, the government decided to implement the project as a permanent active immigration policy mechanism, but the weaknesses of the framework remained unchanged. The number of eligible countries reached the total of 51 in January 2009. Nevertheless, the number of applicants did not grow radically (in total 1,894 participants in December 2010), including due to discontinuing the information campaign in the countries of origin. The Ministry of Labour and Social Affairs decided to terminate the project in December 2010.

Furthermore, in 2007 the Ministry of Industry and Trade submitted a proposal for a liberal Green Card system that would be open to both high- and low-skilled migrant workers.⁷⁹ The Green Card as a single document would enable a foreigner to stay and

⁷⁵ For a fee EUR 780 in 2010

⁷⁶ See www.imigracecz.org for detail information about the project

⁷⁷ Kazakhstan, Croatia and Bulgaria since 2003; Belarus and Moldova since 2004; Canada and Serbia and Montenegro since 2005; Bosnia and Herzegovina, Russia, F.Y.R.O.M. and Ukraine since 2006; India since 2007.

⁷⁸ In 2.5 years (secondary school graduates) or in 1.5 years (for university graduates) instead of the usual 5 years.

⁷⁹ Czech Republic has a large share of industry and manufacturing with the prevalence of low paid manual jobs.

work in the country for maximum three years for Group A (specialists with university degree) or for maximum two years for Group B (workers in jobs with a minimum educational requirement) and Group C (other workers). Green Card holders from Groups A and B could potentially remain in the country for five years and gain the right to apply for permanent residence. Group C workers would not be allowed to extend the permit, and would need to apply for a new one in their country of origin. The system became operational in January 2009 during the recession. Against this backdrop, the Ministry of the Interior decided to open the Green Card to twelve countries only.⁸⁰

The number of applications for the Green Card in 2009 was very low (51) despite Ukraine being included in the list of eligible countries.⁸¹ The new system does not bring many advantages in terms of the simplification and shortening of procedures compared to the current work and business visa system. It also does not reduce high dependence of workers on employers and does not provide migrants with new instruments to protect their rights against exploitation.⁸²

Nevertheless, the Green Card coupled with the lessons learnt from the Selection of Qualified Foreign Workers project could play a positive role in attraction of foreign labour according to the labour market needs if sufficient measures are taken aimed at the improvement and co-ordination of the two instruments.

Institutional and Policy Framework for Integration

The Concept on Immigrant Integration was adopted by the government in 2000 and updated in 2006. National integration policy is mainly aimed at third-country nationals legally residing in the country. Specific measures of the State Integration Programme apply to the integration of recognized refugees.

The Ministry of the Interior coordinates the implementation of migrant integration policy of a range of bodies including the Ministry of Labour and Social Affairs (main role in labour market integration), the Ministry of Education, the Ministry of Industry and Trade, the Ministry of Health, the Ministry for Local Development and the Ministry of Culture. Other partners, including regional administrations and social partners are also involved. Each year the Report on the Implementation of the Policy for the Integration of Foreigners is submitted to the Government.

The Ministry of Labour and Social Affairs (MLSA) provides employers and potential migrants with labour market information primarily through an electronic portal with job vacancies.⁸³ The system is used by the Labour Offices also for the native population, but since 2005 features a special section for third-country nationals in several languages.

⁸⁰ Australia, Montenegro, Croatia, Japan, Canada, South Korea, New Zealand, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, USA, Serbia, Ukraine

⁸¹ Mostly from Ukraine and Serbia

⁸² <http://www.domavcr.cz/pracovni-migrace/zelene-karty>

⁸³ www.portal.mpsv.cz/sz/zahr_zam and Work for Foreigners website

Despite the growing numbers of visits to the government migration information websites,⁸⁴ about 80 per cent of foreigners use private and informal information sources to find jobs and to locate other information (CVNS 2008).

Mutual coherence between national integration plans and their implementation in municipalities is still a challenge (Rákoczyová and Trbola 2008). In an effort to transfer responsibilities for specific integration measures to the local level, the Ministry of the Interior supported the establishment of regional Integration Support Centres for Foreigners (Integration Centres) funded mostly by the European Integration Fund (EIF). Such centres operate since September 2009 in six out of thirteen Czech regions.⁸⁵ The centres provide information to foreigners and provide basis for the set-up and implementation of integration policies on the local level in cooperation with the regional authorities and civil society.

In line with the Concept on Immigrant Integration, the state delegates some of the integration tasks to civil society. NGO projects are funded by subsidies from the ministries,⁸⁶ EIF and other EC funds managed by the Ministry of the Interior. NGOs provide migrants mainly with social, legal and psychological counselling. In recent years projects focusing on employment and labour market integration are gaining in priority.

Employment visa or business visa holders with no children have no access to social benefit payments. Migrant families with at least one child have limited access to the system after one year of legal stay, including parental contributions, birth grants, and child allowances. Other types of support, including unemployment benefits, are available in most cases to third-country nationals with permanent residence permits. For example, benefits paid to foreigners in the first quarter of 2008, mostly in connection to children, represented only 0.1 per cent of the total sum of paid state social benefits (IDEA 2009).

Active Labour Market Measures

General labour market support measures, including training and re-qualification are accessible only to permanently residing migrants and recognized refugees, but no disaggregate data on their participation is collected. The state provides funding for a number of training courses offered by NGOs to migrant workers of all categories on skills training, motivation, CV-writing, and basic computer skills.

In 2008 there were 47 NGOs working with foreigners⁸⁷ and 77 per cent of their services focused on assistance and advice, including on employment (CVNS 2008). The

⁸⁴ 115,000 visitors on average per month in the first half of 2009 compared to 61,000 visitors on average per month in the second half of 2008

⁸⁵ According to Ministry of the Interior similar centres will gradually be established in all 13 regions of the Czech Republic.

⁸⁶ About 850,000 euros were allocated by the governmental decision in 2008, as well as in 2009. Similar amount is planned for 2010.

⁸⁷ Out of these 11 were managed by foreigners.

share of these services and projects supported by the Government has been growing in recent years, as well as that of language courses for migrants.⁸⁸

The state system of education recognition has been strengthened in recent years through enhanced provision of information⁸⁹ and NGO support. However, large share of migrants come to the country knowing that they will perform low-skilled work and do not consider recognizing their qualifications. Thirty-one per cent of economic migrants from third countries that have a work permit had their qualifications recognised; 29 per cent failed in this endeavour; and 40 per cent did not try to get their qualifications recognised. Asylum-seekers are more interested than economic migrants in the recognition of qualifications (GAC 2007).

Furthermore, employers have played a certain role in migrant integration, however the extent and nature of their engagement varies for different categories of foreign workers (Table I).

Table I: Company services for foreign workers, per cent.

Type of service	Manual	Administr. and technical	Professionals	Managers
Czech language courses	7.3	36.9	34.3	53.8
Accommodation	91.8	52.3	77.9	77.4
Finding accommodation	91.8	67.6	82.9	78.5
Arranging residence permit	54.4	68.5	74.0	86.0
Assistance in liaising with authorities	100.0	99.1	100.0	100.0
Social and legal counseling	29.2	30.6	32.6	37.6
Psychological counseling	6.4	7.2	11.0	14.0
Family members care	5.8	12.6	11.0	26.9
Company health care	79.2	100.0	99.4	84.9
Leisure activities	13.5	18.9	32.6	20.4
Teambuilding programmes	3.5	22.5	27.1	34.4
Recreation	17.5	30.6	34.8	25.8
Cultural orientation	14.3	19.8	33.7	26.9
Establishing informal relations	17.8	18.9	30.4	24.7
Visits to Czech families	7.0	5.4	17.7	6.5
Assistance with removal	14.3	14.4	14.4	30.1

Source: Vyhlidal, J. 2007. *Social Integration. In Employers of Foreign Workers in the Czech Republic and their Role in the Social Integration Process*. RILSA, Prague

⁸⁸ As of 1 January 2009 language exams for foreigners became a condition permanent residency. The majority of migrant workers use Czech language in their work occasionally (GAC 2008). However at the same time they often work in the environment where communication in their mother tongue distinctly prevails.

⁸⁹ <http://www.msmt.cz/international-cooperation-1/recognition-of-qualifications-and-education>

Discrimination in Employment

Discrimination of foreigners on the labour market is a fundamental problem in conditions of lacking efficient enforcement and sanction mechanisms. Under the Anti-discrimination Act that came into effect on 1 September 2009, persons alleging discrimination may seek equal treatment and opportunities by addressing the respective personnel in their company (Rozumek 2010). In addition, under the new Penal Code, irregular employment of foreigners became a criminal act as of 1 January 2010.

Many migrants do not trust public authorities and prefer to seek assistance with NGOs if at all. A very limited number of migrants are members of trade unions,⁹⁰ although every worker, foreign or national, has a right to become a member.

Manual migrant workers in sectors with a high degree of seasonality (such as agriculture, construction) are often hired on so-called “work agreements” that provide workers with even less stability than temporary employment, as they are easy to terminate and are mostly short-term in their nature. For 28 per cent of employers who employ foreigners for manual positions, work agreements are the most common form of legal labour relations with foreign workers (RILSA 2007). Employers of non-manual workers, particularly of management personnel more often conclude contracts for an indefinite period.

With regard to vocational training, no significant differences have been identified in the approach of employers to basic training of domestic and foreign workers (RILSA 2007). However, migrants are significantly disadvantaged in access to further work training with the highest differences recorded for manual workers. Employers more frequently offer training for domestic manual workers (37% do so always or usually), than to migrants in similar jobs (23%).

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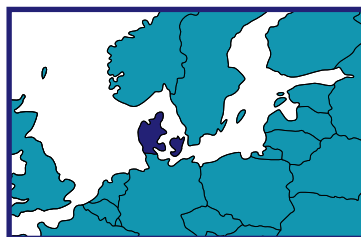
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DENMARK

Sally Khallash⁹¹



Institutional and Policy Framework for Admission and Employment

The Danish labour market is fairly restrictive for third-country nationals. Since 2001, the Danish Government's immigration policies were aimed at limiting the number of refugees and family reunifications; and increasing the number of skilled and student immigrants.

The Danish Immigration Service (IS) working under the Ministry of Integration examines applications from foreigners wishing to reside in Denmark, including applications for asylum, family reunification, study, work, or visas for short visits to Denmark. Different tasks, such as guidance and reception of residence applications to Danish representations abroad, have been delegated from the Ministry of Integration to the Ministry of Foreign Affairs and Ministry of Justice.⁹²

The Danish Agency for International Education (previously CIRIUS, now IU) is responsible for assessing foreign nationals' credentials in order to make entry into the Danish labour market and/or the undertaking of further education easier. Increasing focus is observed towards including informal credentials as well, and in 2007 a law on further development of recognition of prior learning and informal competences was passed.⁹³

Since 2001 the Aliens Act has been subjected to 14 different revisions, each change including further tightening of the rules. On 15 March 2010 the government coalition presented new restrictions that included a new points-based system to encourage foreigners to make an active effort to become integrated in the labour market and society. However, foreigners can now obtain permanent residence within four years,

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⁹² IOM: Integration of Migrants, Denmark, page 67, 2009 + Deloitte: International Recruitment, August 2008.

⁹³ Act on the Change of Laws regarding the Ministry of Education; <https://www.retsinformation.dk>

and family reunification can only occur if the applicant has not received public benefits within three years of application (instead of the previous one-year rule). Finally, refugees travelling back to their country of origin can have their permits withdrawn for ten years.⁹⁴

Security of residence and access to the labour market require a temporary residence permit, which can be granted based on asylum, family reunification, employment or education criteria. To obtain a permanent residence permit, the migrant should legally reside in Denmark for seven years.⁹⁵ Generally the security of residence is relatively low. Permanent residence has many nuanced rules and is therefore rather hard to obtain. Temporary permits must repeatedly be renewed with due diligence, in cases of expiration after a certain period of time or due to a change in employer or education.

Work permits follow residence permits. It is required that salary and employment conditions of migrants match the Danish standards. Responsibility for getting a work permit rests with the applicant and is required prior to entry (along with a specified work contract). The work permit is granted for a specific position, and if the position changes, a new permit must be attained. The work permit is valid for the same time period as the residence permit, unless stated otherwise.⁹⁶

In 2002, the “Positive List” was introduced to facilitate the recruitment of foreign workers in certain jobs with shortages of particularly qualified workers.⁹⁷ In the Job Card Scheme, foreign nationals hired for work within one of the listed professions will be immediately eligible for a residence and work permit as soon as the applicant has a concrete job offer matching the Danish employment standards. In uncomplicated situations, the processing time must not exceed 30 days. In the Positive List Scheme, foreign national professionals are eligible for residence permits for the duration of up to three years with the opportunity of extension. Also, he/she is entitled to family reunification. In case of a job loss, the requirements for residence permits are no longer valid (IOM, EP, 2008: 200-201).

Self-employment is possible for foreign nationals with a residence or work permit. Residence permits are given for one year with the possibility of extension each year but do not ensure automatic rights for family reunification. The IS will determine how the business relates to Danish business interests. Restaurants and retail shops are not eligible for business permits (IOM, EP, 2008: 200-201).

For migrants entering with the purpose of studies, a work permit for up to fifteen working hours per week and full-time work in June, July and August is also granted.⁹⁸

Spouses, cohabiting partners and children can obtain family reunification and residence permit initially for a limited period with extension possibilities.⁹⁹ The process of bringing spouses and/or other family members to Denmark is relatively complicated due to a restrictive reunification policy, requiring for the sponsor to meet a number of criteria. The reunification policy is restrictive to the newcomer particularly as the

⁹⁴ <http://www.nyidanmark.dk>

⁹⁵ Prolonged permit: <http://www.nyidanmark.dk>

⁹⁶ Aliens Order, Art. 31; Art. 33

⁹⁷ Detailed in the Job Card Scheme and Positive List.

⁹⁸ Order in Residence Permits for Students, Art. 15

⁹⁹ Aliens Act, Art. 9

timeframe for residence permits is limited to 1-2 years, necessitating a repeated re-evaluation process for renewal of the permit. The family member has an autonomous status in the sense that the residence timeframe does not automatically correspond to that of the spouse with a work permit in Denmark. Furthermore, a residence permit for the family member does not automatically provide access to the labour market, and a work permit must be first obtained.

A time-limited residence permit is initially issued for a maximum of two years while the subsequent renewals can be for up to three years at a time.¹⁰⁰ In most cases it is possible to renew a work permit. For the Green Card Programme for instance, the work permit can be extended for an additional four years from the initial three years if a migrant had been employed for more than ten hours per week within the last 12 months. However, it is further possible to extend the permit for one year even after being unemployed if unemployment is involuntary due to layoffs.¹⁰¹

Permanent residence is applicable to foreigners who have lived lawfully in Denmark for at least seven previous years, or to a person living in Denmark for five years without receiving public support for three years prior to application, with significant ties to the Danish labour market and Danish society, and a contract extension after the issuance of the residence permit. The new points-based system following the latest changes of the Aliens Act in 2010 encourages foreigners to take an active effort to become integrated in the labour market and society at large to be able to obtain permanent residence status within four years. Thus, the time limits for granting permanent residence status depend on the level of integration into Danish society, in particular language skills, attachment to Danish society; public benefits obtained and integration in the Danish labour market.

The rules on residence for foreign nationals are comprised of a number of schemes that have been designed for highly skilled migrants in order to obtain residence and work permits in Denmark:

The Positive List: The Ministry of Integration develops the Positive List¹⁰² in professions where labour shortages are observed.

The Pay Limit Scheme: Previously part of the Job Card Scheme, it presents professionals with a highly paid job offers particularly easy access to the Danish labour market. The Ministry of Integration sets the amount (currently 50,383 euros).

The Corporate Scheme: It makes it easier for companies with operations in Denmark to transfer employees with special abilities or qualifications to Denmark to work periodically on a project or to carry out work that is innovative or educational in nature.

The Green Card Scheme: Foreign nationals with special qualifications can be granted a three-year residence permit for job-seeking and subsequent employment purposes. Residence and work permits under the Green Card Scheme are issued on the basis of an individual evaluation using a points-based system designed to assess the likelihood that an applicant would be able to find qualified work in Denmark. The

¹⁰⁰ Aliens Act, Art. 7, 8, 9 (1), 11.

¹⁰¹ Integration Ministry: <http://www.nyidanmark.dk>

¹⁰² Coming to Denmark, Work, The Positive List: www.nyidanmark.dk

applicant must obtain at least 100 points, awarded on such criteria as educational level, language skills, work experience, adaptability, and age.

Researchers: Researchers have particularly easy access to the Danish labour market. There must be particular reasons why the study should be carried out by the specific researcher, but research work is considered to be so closely linked to the individual researcher that the general employment situation in Denmark is not decisive in the granting of the residence and work permit.

Institutional and Policy Framework for Integration

The Danish Integration Act came into force on 1 January 1999 and was the first law in Denmark containing comprehensive regulation of integration measures. One declared goal of the Danish Integration Act is to increase opportunities for foreigners to obtain employment, education, or training, and to further ensure that the newly arrived foreigners become rapidly self-supported through employment.¹⁰³

The Ministry of Integration established in 2001 is responsible for labour market integration of migrants within the first three years of arrival. The Ministry of Employment through the employment services is responsible for migrants following the initial first three years after settlement.

In May 2005, the Government released its new integration plan for migrants and their children living in Denmark for several years. The plan was passed as legislation in 2006 and contains a series of initiatives related to integration through education and employment.

Some of the initiatives comprised in the plan include:

- Recipients of cash benefits aged 18 to 25 are forced to decide to either participate in an educational activity or to have their cash benefits withdrawn. This also applies to persons of Danish origin.¹⁰⁴
- Foreigners granted residence in Denmark must sign an integration contract which lasts for seven years and specifies their obligations to the society: to learn Danish, make an effort to become employed, and to comply with the basic values of the Danish society,¹⁰⁵ defined in the Government's Integration and Immigration Policy of March 2003.
- Danish language skills will be regularly tested.

The central component of the initial Integration Act was granting the individual municipalities responsibility for the integration of foreigners.¹⁰⁶ Municipalities are in charge of local Job Centres and are therefore responsible for labour market integration on the local level. Furthermore, each municipality should set up an Integration Council as an advisory body for integration efforts (OECD, 2007: 23-24).

¹⁰³ Ibid.

¹⁰⁴ Agreement on 'A new change for everyone', 2005, p.3; <http://www.nyidanmark.dk>

¹⁰⁵ Ibid, p.4.

¹⁰⁶ Integration Act LBK nr 1593 af 14/12/2007; <https://www.retsinformation.dk>

Since the numbers of family and humanitarian migrants are falling, the overall integration expenditures of the Ministry of Integration dropped by 60 per cent in 2002-2006. The only budgetary increase is observed in the areas of labour market integration, new diversity programmes that promote equal treatment and fight racism, and programmes on gender equality and integrating female migrants into the labour market.

Active Labour Market Measures

The 2004 revised Integration Act stipulated that all newcomers who obtained residence permits through family reunification or through an extension of their asylum will automatically be signed up for an Introduction Programme.¹⁰⁷

Municipalities are obliged to offer the Introduction Programme supporting newcomers in language, cultural, and professional acquisitions, and can last a maximum of three years with a minimum of 37 hours of activities per week. It has three main categories of activation activities: 1) counselling and upgrading of skills and qualifications, 2) job training through internships, and 3) subsidized employment for up to one year. Further activities include business-oriented language training or assisted programmes of activation. Assisted activation programmes in Denmark are either mentor programs or jobs with wage subsidies. Statistics are not available on the number of mentor programmes, for the programmes run by the Ministry of Integration, nor for the various voluntary programmes provided by civil society. For some labour market measures, such as wage subsidies, data is available only for the total population.

Since 2004 all foreigners above 18 years of age regardless of their permit category, length of stay in Denmark or prior language training should participate in a three-year language course (OECD, 2007: 26). The courses must assist adult aliens in acquiring language skills as well as knowledge of the Danish labour market upon receiving a residence permit in order to ensure prompt integration in the labour market (IOM, 2009: 61). The courses are increasingly becoming business-oriented and flexible in terms of time, place and content allowing the migrant to take up additional training or education alongside the language course, to enhance interaction possibilities with potential employers, or training elsewhere.¹⁰⁸

Within one month from the granting of the residence and work permit, an Integration Contract between the newcomer and the municipality must be signed, clarifying the goals of employment or education. The contract is reviewed every three months. In addition, the foreigners must sign a declaration on active civic participation, which outlines rights and responsibilities.¹⁰⁹

In close contact with the Job Centre, the newcomer will be evaluated and placed in a matching group corresponding to his/her potential for employment. The matching

¹⁰⁷ Guidance Note on the Introduction Programme in accordance with the Integration Act, June, 2009, paragraph 3; <http://www.nyidanmark.dk>

¹⁰⁸ Act No. 375 of 28 May 2003 on Danish courses for adult aliens, <http://www.nyidanmark.dk>

¹⁰⁹ Integration 2009, Areas of Action, p.11; <http://www.nyidanmark.dk>

groups have been created in order to secure the shortest possible unemployment period and to showcase the newcomer's potential.¹¹⁰ The system consists of five matching group categories but will from April 2010 be replaced by a three-group system, evaluating individuals as either equipped for a job, equipped for employment training within three months, or temporarily passive.¹¹¹

In 2008 the Integration Ministry has increased focus on spreading knowledge on the use of mentor programmes both in public and private organizations to support employment and labour retention.¹¹² Mentor programmes have proven to be a highly effective tool to help newcomers gain a foothold in the labour market. Companies, through their respective municipalities, receive wage subsidies and grants if they create mentor programmes.¹¹³ They can also engage in voluntary mentor programmes run by independent institutions or NGOs. The voluntary programmes have focused strongly on women.

The "We Need All Youngsters" campaign has worked since 2003 to increase the number of young people with immigrant backgrounds to start, retain, and finalize an education. The methods used to reach this goal include role models (an initiative which has been in contact with more than 15,000 youngsters across the country since 2003), recruitment to the labour market, and cooperation with both parent groups and voluntary associations.¹¹⁴

Nevertheless, potential exists for further improvement of the policy framework, in particular on the following aspects:

- Too many authorities are involved in the registration and integration of newcomers with no coordinating body for the oversight. As a consequence, employers have to spend extensive time bringing their employees to relevant authorities (Deloitte, 2008), and some applicants give up the process or make a delayed start.
- It is difficult to navigate the rules (14 amendments to the Aliens Act since 2001)
- The primary goal of the integration policy is to promote self-support of individuals with poor resources by fostering their labour market integration. This means that more resourceful migrants receive much less attention, and the retention of highly skilled workers is left to the market.
- Quantitative labour market integration of migrants has not necessarily resulted in salaries or positions comparable to the Danish population. Many of the labour market initiatives are intended to integrate as many migrants in the labour market as possible, but without facilitating qualitative integration as well, leading to brain waste and labour market segmentation.
- Job Centres are responsible for helping foreign workers to seek jobs in Denmark and are supposed to help Danish companies to find qualified foreign professionals to hire. However, the companies rarely use Job Centres for international

¹¹⁰ Center for Aktiv Bskæftigelsesindsats/Centre for Active Employment (CAVI); <http://www.cabiweb.dk>

¹¹¹ Ny Match Model – sådan og derfor, National Labour Market Authority, October 2009; <http://www.ams.dk>

¹¹² Integration 2009, Areas of Action, p. 28; <http://www.nyidanmark.dk>

¹¹³ Joint report on mentor programmes, p. 6; <http://www.nyidanmark.dk>

¹¹⁴ Integration 2009, Areas of Action, p. 23; <http://www.nyidanmark.dk>

recruitment. Research by Deloitte in 2008 shows that companies using the Job Centres have experienced long waiting periods, mismatches between the expectations of the company and the presented foreign worker, or even being referred to employees without residence or work permits (Deloitte, 2008). Due to the lack of usage of the Job Centres by companies and foreign nationals, it is also difficult to build up competences and knowledge in the Job Centres. In addition, the Job Centres and municipalities are measured on how many job-seekers they manage to get into employment rather than the quality of the job or process (OECD, 2007: 45).

- It has an almost exclusive focus on labour market integration, while research by Deloitte shows that social integration outside of the work place is quite difficult for foreigners (Deloitte, 2008). The lack of social integration is one of the reasons why labour market integration fails and some foreign nationals choose to leave (Mikkelsen, 2003: 131).

Discrimination in Employment

All individuals in Denmark are protected by legislation against discrimination and unequal treatment. The Act on the Prohibition of Differential Treatment on the Labour Market covers direct and indirect discrimination on grounds of race, colour, national or ethnic origin, sexual orientation or religion (in force since 1996).

Until 31 December 2008 the Danish Institute for Human Rights (DIHR) was handling complaints of differential treatment on the basis of race or ethnic origin.¹¹⁵ Since 1 January 2009 the Board of Equal Treatment placed under the Ministry of Social Affairs has been undertaking complaints related to discrimination. The Board is criticized for having limited action opportunity since it cannot by itself take up cases of discrimination.¹¹⁶

The Ombudsman is responsible for ensuring proper exercise of the administrative powers and primarily examines complaints from people in relation to their treatment (IOM, 2009: 68). However, the Ombudsman has limited legal power and few opportunities to impose sanctions.

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¹¹⁵ www.klagekommite.dk

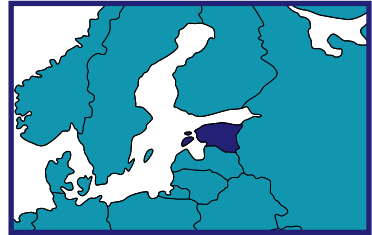
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ESTONIA

Kaia Philips, Doris Pavlov¹¹⁷



Estonia still faces a major challenge integrating the foreign-born population that arrived in the country during the Soviet era, which impacts on the negative public opinion towards liberalizing immigration from third countries. Subsequently, this results in the maintenance of strict admission rules for non-EU migrants, despite the negative demographic outlook and a forecast of persisting labour shortages, in particular for specialists and highly skilled workers (Ministry of Economic Affairs and Communications, 2008).

The goals of the Estonian migration policy in 2009-2013¹¹⁸ include ensuring the demographic and economic sustainability and conflict-free co-existence of all people residing in Estonia. According to the policy document, Estonia prefers employees who have skills that are important for the Estonian economy, and is open mainly for top specialists and employees with special skills.

Migration policy is different for short-term and long-term migrants. In the case of persons taking up permanent residence in Estonia, migration and integration policy must ensure the preservation of the common Estonian national identity, including Estonian language skills.

Furthermore, in December 2008, the Office of the Minister for Population and Ethnic Affairs and in cooperation with other state authorities, academia and the civil society, developed a concept document on the Basis of Population Policy in 2009-2013. The document will serve as grounds for decision-making on, among others, family, healthcare, and migration policies.

¹¹⁷ Both authors are affiliated with the University of Tartu, Estonia.

¹¹⁸ Main Principles of Population Policy; chapter 4 (<http://www.rahvastikuminister.ee/?id=12392>)

Institutional and Policy Framework for Admission and Employment

Third-country nationals that wish to work in Estonia are subject to a labour market test, and should obtain one of the following to have a legal basis for employment:

- work permit;
- residence permit for employment;
- registered short-term employment in Estonia;
- right to work in Estonia arising from the law or international agreement.

Migrants who wish to work in Estonia need to have a valid residence permit. Residence permits for employment and work permits are issued, and the short-term employment is registered by the Citizenship and Migration Board (CMB). A temporary residence permit may be issued for employment, business, studies, family formation and reunification, as well as to foreign nationals with permanent legal income that ensures subsistence in Estonia,¹¹⁹ as well as those who have served in the armed forces of a foreign state, have been assigned to the reserve forces thereof or have retired there from, and to whom the “Agreement between the Republic of Estonia and the Russian Federation on Social Guarantees for Pensioners of the Armed Forces of the Russian Federation in the Territory of the Republic of Estonia” applies.

A temporary residence permit may be granted for up to five years, but the law specifies terms of validity for differently grounded residence permits: a residence permit for employment and legal income is granted for up to two years; for studies – for the period of studies, up to one year; for settling with a spouse – up to one year at a time, but not longer than the validity of a sponsor’s permit.

The long-term residence permit can be issued to a foreigner who has continuously for at least five years lived in Estonia on the basis of a temporary residence permit and has a valid residence permit, registered residence, health insurance, continuous legal income for sustenance in Estonia and who can speak Estonian on at least a basic level (B1 or equivalent according to the European language learning framework document).¹²⁰

A foreigner can be granted a residence permit for employment if an open competition has been carried out for the vacancy and if, within three weeks, it was not possible to recruit anybody through the state employment mediation service. A residence permit for employment is issued for the period of guaranteed employment in Estonia with a period of validity of up to two years, and can be extended for up to five years in total. The Labour Market Board (LMB) has to give its consent before a foreigner can be employed.

¹¹⁹ The following forms of income are deemed legal: lawfully earned remuneration for work, income received from lawful business activities or property, pension, scholarships, alimony, parental benefit, state benefits paid by a foreign country, and subsistence ensured by family members earning legal income.

¹²⁰ On 1 June 2006 the amendment of the Aliens Act was aimed to transpose into Estonian legislation the Council Directive 2003/109/EC concerning the status of third-country nationals, who are long-term residents. The amendment of the mentioned act established also the integration requirement for the application for the status of long-term resident. The idea of the integration requirements lies in the fact that an alien who is a part of the permanent population of Estonia should have a basic knowledge of the Estonian language. Taking the language exam for the basic level is required as an integration requirement since 1 June 2007.

Some foreigners may apply for a temporary residence permit for employment without the consent of the LMB, a public competition or fulfilling the salary criterion (see further below on 2008 amendments to the Aliens Act), including those holding long-term residence permit of an EU Member State; persons who have such rights proceeding from international law, certain categories of artists, scientists, pedagogues, sports coaches, religious representatives, as well as posted workers within the parameters of the Working Conditions of Workers Posted in Estonia Act.

Moreover, there are some categories of short-term workers who are allowed to work in Estonia on the basis of their visa and without a work permit for a maximum six months in a year. These are mainly highly skilled workers, such as scientists, teachers, lecturers, researchers, creative persons, sportsmen and others. The category of highly skilled workers is not defined in the Estonian legislation, and the basic criteria include having required qualification for the working position. The immigration quota is not applicable for these short-term workers.

For some of these positions, the employer is required to submit to the CMB information on wages (au pair, expert, adviser or consultant, installer of equipment or skilled worker, seasonal workers related to processing of agricultural produce), which should be at least equal to the average gross monthly salary in the respective sector,¹²¹ and must be proportionate to the number of working days.

Differently from the residence permit for employment, the work permit does not have any established conditions and is issued to foreigners with a temporary residence permit on the basis of sufficient legal income. The term of validity of the work permit issued must not exceed the term of validity of the residence permit.

Some foreigners do not need a work permit for employment in Estonia, including the following categories:

- with a residence permit for settling with a close relative residing permanently in Estonia,
- with a residence permit for settling with a spouse living permanently in Estonia or a spouse, who is a citizen of Estonia,
- with a residence permit on the basis of international agreements,
- with a long-term residence permit,
- imprisoned persons during their stay in the prison,
- with a residence permit for employment according if such conditions are established in the permit,
- with a residence permit for studies (may take employment in Estonia without a work permit in order to participate in practical training pursuant to the curriculum; otherwise only on the basis of a work permit but only outside of school hours on condition that such employment does not interfere with the studies).

¹²¹ It also cannot be lower than the recent average annual wage in Estonia published by Statistics Estonia multiplied by coefficient 1.24.

Prior to the recent recession many business voices criticized the migrant admission procedures for being inconvenient and time-consuming (up to six months). In August 2006, the Working Group on the Foreign Labour Force Strategy, tasked with the analysis of the simplification of foreign labour immigration, and to propose the respective legislative amendments, was established under the Ministry of Economic Affairs and Communication. The working group comprised representatives of 13 organizations, including five ministries, Estonian Employers' Confederation, Chamber of Commerce and Industry, Confederation of Estonian Trade Unions and other social partners.

After discussions in the working group the mechanisms for the simplification of labour mobility and employment of foreign labour in the Aliens Act were developed and the resulting amendments entered into force in the summer of 2008. The main changes were the following:

- The annual immigration quota was increased from 0.05 per cent to 0.1 per cent of the permanent population in Estonia (approximately 1,300 persons). The immigration quota does not apply to the ethnic Estonians, nationals of the EU/EEA, United States, and Japan.¹²²
- Wages paid to a foreigner must not be lower than the Estonian average annual wage published by Statistics Estonia multiplied by the coefficient 1.24 established for the registration of a residence permit for employment and short-term employment purposes.
- The deadline for processing residence permits was decreased from six to two months; the deadline for the Labour Market Board's consent was decreased from 15 to seven days.
- The basis for refusing to register short-term employment was established in the law.
- Foreigners who have been granted the following temporary residence permits were exempt of the obligation to hold a work permit:
 - for settling with a spouse living in Estonia;
 - for settling with a close relative living in Estonia;
 - in the case of permanent legal income;
 - on the basis of an international agreement.

In 2008, Ministry of the Interior initiated further amendments to the Aliens Act to improve its legal clarity, which should ultimately come into force on 1 July 2010, according to the draft.

¹²² Additionally, in the draft version the Minister of the Interior was to be allowed to exempt specific persons from the immigration quota if their arrival in Estonia was necessary in the national interest for economic, educational, scientific or cultural development.

Institutional and Policy Framework for Integration

Up to June 2009, the responsible authority for developing societal integration policy was the Ministry of Population and Ethnic Affairs. This mandate was subsequently transferred to the Ministry of Culture. Additionally, in 1998 the Integration Foundation was created to initiate and support projects aimed at integration. In 2007 the national programme Integration in Estonian Society for 2000-2007 was completed and a new national integration programme for the years 2008-2013 was developed. The mentioned integration plan was developed by representatives of different ministries relevant to the area of integration and the Integration Foundation.

The national integration programme for 2000-2007 did not include direct activities in the field of social and economic integration. However, according to both plans the Estonian educational system is one of the pillars of integration that ensures teaching of the Estonian language.

The previous state programme did not expand however to the migrants who have arrived since the restoration of Estonian independence as a separate target group, and hence no specific measures for their integration were envisaged. Integration of new migrants has thus far been project based, and not coordinated by the state.

Discrimination in Employment

The Estonian legislation prohibits discrimination in employment and other spheres based on, among other things, ethnic origin, race and religion. The Gender Equality and Equal Treatment Commissioner and the Legal Chancellor are the bodies entrusted with, respectively, monitoring compliance with anti-discrimination legislation and resolving discrimination disputes through conciliation procedures.

The European Commission against Racism and Intolerance (ECRI) issued a new report on Estonia in March 2010 and welcomed positive developments in the field. However, Estonia has still not ratified Protocol No.12 to the European Convention on Human Rights, which ECRI considers of primary importance for combating racism and racial discrimination at the national level. Provisions of the Criminal Code regarding racism are still very rarely implemented.

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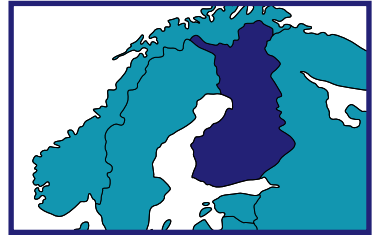
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FINLAND

Suvi Turja¹²³



The current Migration Policy Programme of Finland dates from October 2006 and is largely based on Finland's increasing need for labour migrants. Despite a stronger focus in the first draft on the promotion of migrants from the third countries, the adopted Programme largely relies on promotion of labour mobility from the EU Member States. The Government decided to lift the transitional period for the EU8 countries in May 2006, and did not apply any restrictions to Bulgaria and Romania upon their accession in 2007.

Moreover, in the recent years Finland has invested into attracting foreign students (both EU and third-country nationals) to Finland, and their integration into the Finnish labour market is considered important. The Programme contains a list of guidelines and measures for future implementation, including on the clarification of the residence permit system, improving the system of qualifications recognition, and expanding integration measures such as language training and the employment-related induction system.

In November 2009 the government of Finland also adopted the Action Plan on Labour Migration for 2009-2011 that was developed by a steering committee comprising representatives from various ministries, trade unions and the Finnish Immigration Service. It is a document enlarging on the policies created in the government's Migration Policy Programme, and specifically reiterates the need to provide a comprehensive framework for recruitment of migrants in response to labour market needs.

However, the Action Plan contains no budgetary allocations, and the implementation of measures has largely been postponed due to recession.

¹²³ Suvi Turja is a researcher at IOM Helsinki. The report is drafted on the basis of desk review and interviews conducted at the Ministry of the Interior and the Ministry of Employment and the Economy in February-March 2010.

Institutional and Policy Framework for Admission and Employment

Administration of migration issues in Finland was restructured in 2008. The Ministry of the Interior and the Ministry of Labour¹²⁴ were jointly responsible for the administration of migration issues in Finland until 2008, the Ministry of Labour having the main mandate on the integration of migrants. As of 2008, the Ministry of the Interior is the main state agency responsible for formulating migration policy, drafting legislation on migration and integration and coordinating migration-related activities implemented by other agencies.

The Finnish Immigration Service under the Ministry of the Interior handles matters related to foreigners' entry, residence and removal, refugee status and citizenship. The Ministry of the Interior and Ministry of Employment and the Economy are jointly responsible for monitoring the volume and structure of the foreign labour force in Finland.

The Ministerial Working Group on migration policy discusses and decides on important migration policy issues, such as the allocation of the annual refugee quota. Its members are the Minister of Migration and European Affairs, the Minister of the Interior, the Minister of Education, the Minister of Health and Social Affairs, the Minister of Labour, the Minister of Economic Affairs, the Minister of Public Administration and Local Government, and the Minister of Foreign Trade and Development.

Centres for Economic Development, Transport and the Environment are responsible for measures on migration, integration and promotion of good ethnic relations at the regional level, as well as for supporting the local authorities in these matters. At the local level, municipalities are responsible for developing, planning and monitoring measures for integration of migrants within their respective areas. The Employment and Economic Development Offices make preliminary decisions on applications for a residence permit for an employed person, assist migrants with job-seeking, and provide information about the Finnish labour market, employment and training opportunities and different occupations. The largest Employment and Economic Development Offices have EURES¹²⁵ advisers and other advisers specialised in migrant service provision in many languages.

Only the nationals of the EU and the Nordic countries are allowed to enter Finland as job-seekers. Since 2004 the dual system of a work permit and a residence permit was substituted by a single residence permit for an employed person. A third-country national wishing to work in Finland needs a residence permit for an employed person (to be requested by the employer) or a residence permit for a self-employed person in order to engage in business activities in Finland.

First, a local Employment and Economic Development Office makes a preliminary decision on an application for a residence permit for an employed person, which is then forwarded to the Finnish Immigration Service for the final decision. Such permits may be granted on the basis of temporary or permanent employment. However, third-country nationals who come to Finland for short-term (maximum three months) seasonal

¹²⁴ Ministry of Employment and the Economy since 2008.

¹²⁵ European job mobility portal and network.

employment only need a visa.¹²⁶ A residence permit for an employed person is usually granted for the specific occupational sector. Fixed-term residence permits are usually granted for one year, and they can be extended for one year at a time. Continuous residence permit can be granted after a two-year temporary stay if preconditions for granting the permit are still valid. In case of unemployment, third-country national must leave Finland after his/her residence permit has expired unless he/she has been granted a residence permit on other grounds (studies, family).

Third-country nationals have unlimited right to work in Finland if they have been granted a permanent or continuous residence permit based on grounds other than employment: family ties, temporary need for protection or other humanitarian grounds, being a professional athlete or trainer, working for a religious or non-profit association, or professionally in the fields of science, culture, or arts, working as a company executive or mid-management or holding an expert position that requires special skills, and others.

In December 2009, the Government of Finland introduced a bill to the Parliament on the amendment of the Aliens Act. The amended bill that is expected to become a law in 2011 simplifies and clarifies the current permit system in order to facilitate labour migration of third-country nationals. In particular, the system of determining the availability of Finnish labour for a given position would be gradually phased out, while still observing preference for recruitment of EU/EEA nationals and third-country nationals with work permits. Moreover, the right to work is to be incorporated in the residence permit, and the first permit would be granted for five years instead of one year. The Finnish Immigration Service alone would be responsible for granting residence permits to third-country nationals, thus eliminating the role of the local Employment and Economic Development Offices, and the responsibility for applying for a residence permit is transferred from the employer to the employee.

Institutional and Policy Framework for Integration

As of 2008, the Ministry of the Interior is the main state agency drafting legislation on integration and coordinating related activities implemented by other agencies. The Ministry of Employment and the Economy is responsible for promoting the employment of migrants on the Finnish labour market.

The government of Finland is currently amending the Act on the Integration of Immigrants and Reception of Asylum Seekers adopted in 1999. The amended Act will be presented to the Parliament in autumn 2010.

The amended Act aims at extending integration measures and services to all migrants, including the needs assessment that serves as a basis for developing an individual integration plan (see below). Moreover, a migrant would be able to take part in integration activities also after he/she finds employment if necessary. Language training would become the central part of integration activities, especially for inactive migrant women.

¹²⁶ Third-country nationals who come to work in berry-picking on farms need an invitation from the employer, whereas third-country nationals who come to pick berries in the forests do not need an invitation.

The Ministry of the Interior launched a project (Osallisena Suomessa-ohjelma) in April 2009 aimed at developing new models for migrant integration in Finnish society. In November 2009, the project working group recommended that different kinds of integration models should be tailored to different migrant groups, such as migrants of working age, with special needs or children and youth in order to reflect the individual needs of migrants.

In addition, the Ministry of the Interior is currently in the process of developing a system for monitoring and evaluating integration measures for migrants, and has launched two complementary projects in 2009 for that purpose. One project aims at creating models and indicators for monitoring and evaluation of integration measures. The other supports creating a barometer that collects migrant views on the integration policies and measures.

The Ministry of the Interior is also implementing a migrant integration project ALPO¹²⁷ in 2007-2013, funded by the European Social Fund (ESF). ALPO is a support structure for 28 migration projects implemented in different parts of Finland. It gathers best practices generated by these projects in order to develop a national model for initial guidance and orientation services for migrants. The areas of development include electronic services for language learning and testing of language skills, initial integration information in the most common migrant languages, national guidance and orientation services, uniform testing and skills mapping methods, and electronic services in the most common migrant languages.

Furthermore, the government of Finland implemented 11 pilot projects¹²⁸ financed by the European Social Fund in order to develop new models for promoting integration and employment of migrants in various regions in Finland from June 2009 to January 2010. The final report on the pilot projects will be published in 2012. Successful models will be used for improving old and creating new integration instruments and measures that will be taken into consideration in the amended Act on the Integration of Immigrants and Reception of Asylum Seekers.

Despite the growing range of integration initiatives, there is a lack of official oversight of language and integration programmes offered to migrants in Finland. The National Board of Education has drawn up general guidelines for the programmes, but the authority to oversee the educational institutions that offer the programmes lies with both the Ministry of Education and the Ministry of Culture. Dual management has resulted in neither Ministry taking responsibility for the supervision of the programmes, and hence in the existence of a number of parallel but unequal integration programmes. Moreover, the funding earmarked for the programmes has stayed the same even though the number of migrants is increasing.

The government of Finland is currently amending the Nationality Act that dates from 2003 with the aim to promote integration of foreign nationals permanently residing in Finland by enabling the acquisition of Finnish citizenship in a more flexible manner. The amended legislation was presented to the parliament in June 2010. The proposed

¹²⁷ Abbreviation of the Finnish name "Suomeen muuttaneiden alkuvaiheen ohjaus ja osaamisen kehittäminen – tukirakenne".

¹²⁸ Information about the projects is available at <http://www.intermin.fi>

changes include shorter residence periods before obtaining citizenship,¹²⁹ and facilitated procedures for foreign students who have completed their studies in Finland.

Case Study: the City of Helsinki

Half of the foreign nationals living in Finland live in Helsinki city area. In 2009, migrants from approximately 165 different countries resided in Helsinki. Ninety per cent of the population growth in Helsinki is created by immigration.

The City of Helsinki has adopted a Strategic Programme for 2009-2012, which also includes policies related to immigration and migrants.¹³⁰ The policies aim at developing counselling and information services for migrants; facilitating workforce mobility between the cities of Helsinki and Tallinn (capital of Estonia); promoting the settlement and integration of migrants into various neighbourhoods, fostering migrants' entry into the Finnish labour market, and encouraging migrant children and youth in their studies. Policies are implemented through various projects that will be evaluated in 2012. Further measures will be adopted based on the evaluation.

The city of Helsinki has an information point to provide guidance to migrants in their mother tongue in matters related to housing, employment, education, health care, social security and residence permits. In addition, the Social Insurance Institution of Finland (Kela) and the Finnish Tax Administration opened a multi-lingual service point in Helsinki in November 2008 for foreigners moving to the Helsinki metropolitan area for work. It is a pilot project that will continue its operations at least until the end of 2010.

A joint project called NEO-SEUTU is implemented in 2009-2011 uniting three municipalities from the Helsinki Metropolitan Area (Helsinki, Espoo and Vantaa) that work in cooperation with a private company Otaniemi Marketing Ltd. The project aims at developing a solid network between the involved municipalities in order to provide the same services throughout the Helsinki Metropolitan Area. In addition, the project provides the municipal advisors with specialized training, and aspires to create a unified way of working.

Active Labour Market Measures

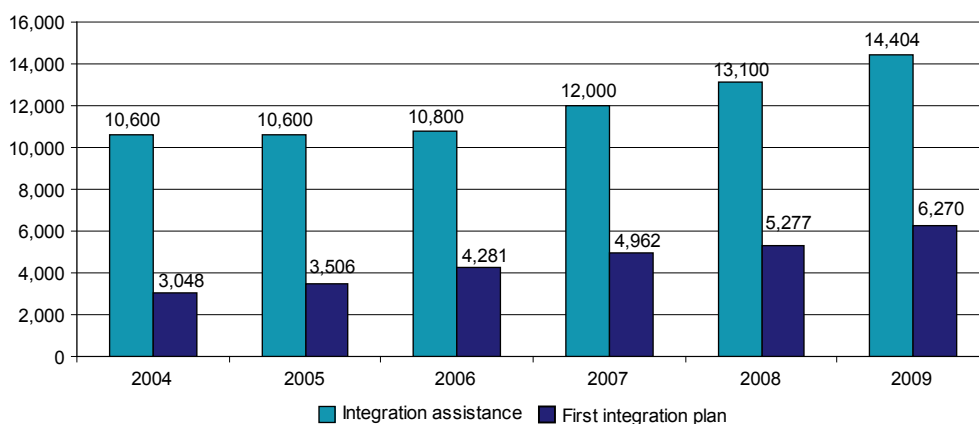
Migrants whose Finnish municipality of residence has been established, who are unemployed, and eligible for labour market financial assistance have a right (not an obligation) to an integration plan and related services. The integration plan can also be created for underage migrants upon their personal or parental request or if authorities consider such an action appropriate. The integration plan includes measures and

¹²⁹ Five years without an interruption (previously six) or, in cases of temporary residency, seven years in total, with last two years without an interruption. It is also under consideration that temporary residence will be taken into account when decisions on granting citizenship are made. The requirement of the time of residence could be shortened to four year if the applicant has a good knowledge of Finnish and/or Swedish.

¹³⁰ In addition to Helsinki, the majority of towns and municipalities with a large migrant population have adopted action plans or strategies on immigration.

services that aim at improving the migrant's language and other skills needed in the Finnish society and the labour market. The plan is drafted for three years, or until the migrant finds a job, together with the migrant, an employment adviser and, if necessary, a representative of the municipality. In special cases, the integration plan can be extended to five years (on the grounds of illiteracy, illness, maternity leave). Migrants who have an integration plan are paid a labour market subsidy as integration assistance. In 2009 an integration plan was drafted for the first time for 6,270 migrants, and integration assistance was paid to 14,404 migrants (Figure 1).¹³¹

Figure 1: Number of migrants receiving integration assistance and new integration plans, 2004-2009.



Source: Ministry of Employment and the Economy, 2009.

Discrimination in Employment

The Finnish law prohibits discrimination on the basis, among other factors, of ethnic or national origin, nationality, language and religion. Under the Non-Discrimination Act¹³² from 2004, the requirement of equal treatment covers all activities by all authorities and businesses. The Non-Discrimination Act was amended in 2008, and the scope of application of the Act was extended to apply partly also to relationships between private individuals.

The Ministry of the Interior is responsible for promoting ethnic equality and good ethnic relations. The Office of the Ombudsman for Minorities and the National Discrimination Tribunal are independent bodies located within the Ministry.

The Ombudsman for Minorities supervises compliance with the prohibition of ethnic discrimination under the Non-Discrimination Act. Due to confidentiality, there are no publicly available statistics on the volume or nature of complaints filed by migrants to the Ombudsman regarding labour market discrimination.

¹³¹ Statistics for 2000-2003 are not available.

¹³² Non-Discrimination Act, Section 2, available at <http://www.finlex.fi/pdf/saadkaan/E0040021.PDF> (in English).

The government of Finland has appointed a broad-based expert body, the Advisory Board for Ethnic Relations (ETNO) in 2008 to enhance dialogue and promote interaction between its members, the Finnish authorities, (migrant) NGOs, ethnic minorities and political parties, to include migrants and ethnic minorities in the policymaking, and raise general public awareness on diversity and equality.

Migrants often have poorer working conditions (including salary, overtime work, holidays), and they are more prone to exploitation compared to the Finnish nationals. Many of them are not aware of the Finnish labour market and labour legislation. Very few immigrants are members of trade unions whereas the membership rate of the Finnish nationals in labour unions is approximately 75 per cent.

When any employee encounters problems regarding the working conditions, he/she may contact the Occupational Safety and Health Administration Inspectorate for advice and guidance.

In 2004 a special task unit was set in the National Bureau of Investigation to combat the informal economy and the irregular employment of migrants.

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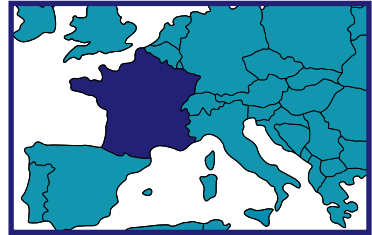
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FRANCE

Jamal Bouoiyour¹³³



Institutional and Legal Framework for Admission and Employment

In the period under consideration between 2000 and 2009, different regulations applied before and after July 2006. In particular, before July 2006 in order for a foreigner to obtain a work permit with a residence card, the application had to be submitted to the Prefecture by the prospective employer.¹³⁴ This permit implied long processing time due to the applied market test, but was eventually made more flexible for IT specialists as of 1998.¹³⁵ In 2004, the IT sector went through growing unemployment, and the special provisions were dropped. However, the circular of January 2004 included exceptions for skills that were not available on the local labour market.

In order to take a decision on the employer's application, the prefect took into account the employment situations in the occupation sector and geographical area, relevance between the worker's qualifications and requirements of the job, the salary offered which had to be at least equivalent to the minimum wage and some other factors. The labour market test would apply also if in the future the foreigner would wish to change the employer before the expiration of a six-month deadline.

Such provisions were hardly meeting the needs of businesses, and these years saw a continuous decrease in labour immigration. The subsequent reform that came into

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¹³⁴ Then the local Direction Départementale du Travail carried out a test on the local labour market so as to ensure that the candidates who were present on the labour market were not able to perform the job which was vacant. In any case, once the application was accepted, the employer had to pay a tax which varied from 893 euros to 1,612 euros according to the foreigner's monthly gross salary.

¹³⁵ This circular added as a condition that the foreigner employee had a work contract in due form with a salary higher than 2,250 euros a month.

force in 2008 is an important step towards creating more favourable conditions for some categories of labour immigration.¹³⁶

The new legislation (in force as of 18 January 2008) is structured around three main areas:

- The institution of exceptional arrangements to the issuance of residence permits for occupations in a geographical area characterized by labour shortages,
- The introduction of a residence card for “talented skills”,
- Flexibility of temporary migration conditions.

The new legislation established a national list of 30 occupations for each region, for which third-country nationals can apply, irrespective of the employment situation of other foreigners already present on the labour market.¹³⁷ In order to compile the list, the authorities constructed a tension indicator for each occupation and each region, defined as the ratio between the number of offers and the number of employment applications registered at the *Pôle Emploi*.¹³⁸ Regions and jobs for which these indicators are the highest are included in the list of exceptional arrangements. Thus, the Directorate General of Treasury and Economic Policy (DGTPE) provides a list of jobs for which the difficulties of recruitment are the highest measured by this indicator.¹³⁹

The French authorities would select occupations that suffer from “extensive and structural” labour shortages for which the indicator of tension was equal to or greater than one. This selection is based on the *répertoire opérationnel des métiers* (ROME-operational database of occupations) used by the *Pôle Emploi*. However, potential challenges to the efficiency of this approach may include the following:

- The tension indicator is not comprehensive, since the *Pôle Emploi* does not cover the whole of the labour market and does not list all job vacancies, particularly those for the very highly qualified jobs;
- The indicator does not accurately reflect the state of demand for jobs: a jobseeker may accept a job in a different occupation from the one stated in the initial application to the *Pôle Emploi*;
- Some occupations exhibit a high rate of turnover and consequently a high indicator of tension, while not experiencing any persistent shortage (Tresor-Eco, 2010).

Jobs included in the list from the beginning did not require very high qualifications, but the 2008 list already included some higher skilled positions. There is also a great

¹³⁶ Major changes in migration policy have been introduced by the law of July 24, 2006, but were not enacted until 2008.

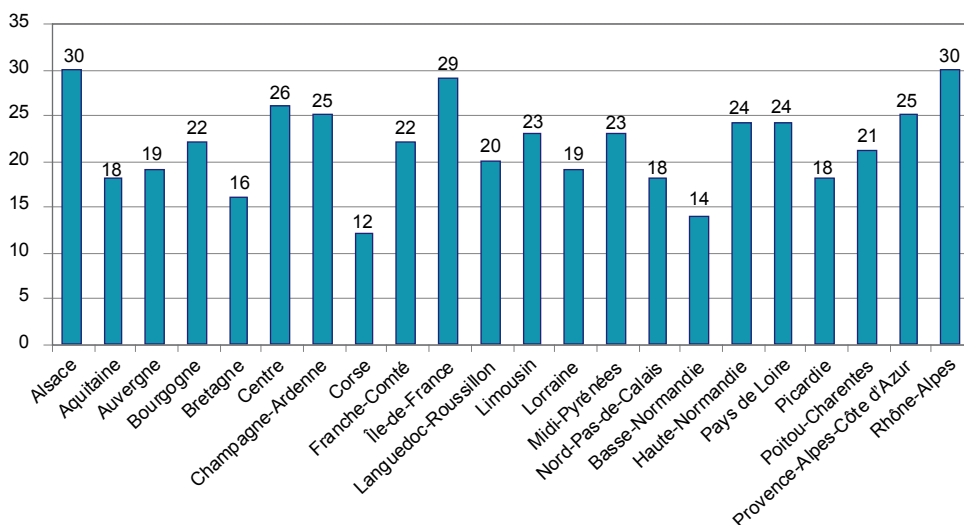
¹³⁷ Article L313-10 CESEDA, 1st paragraph

¹³⁸ *Pôle Emploi* was the result of the merging of the *Agence Nationale pour l'Emploi* (ANPE) and the *Associations pour l'Emploi dans l'Industrie et le Commerce* (ASSEDIC).

¹³⁹ In addition, the National Interprofessional Union for Employment in Industry and Trade (UNEDIC) carried out annual surveys of manpower needs (BMO) by companies. The survey identifies occupations for which recruitment difficulties are present in the largest share of planned recruitment, but does not allow the identification of whether such difficulties come from shortage of labour or inefficiencies of matching supply and demand.

variance of eligible jobs between different regions (Figure 1). Thus, in Corsica for example, only twelve occupations were liberalized in 2008, compared to 29 in Ile-de-France (Saint-Paul, 2009).¹⁴⁰

Figure 2: Number of occupations in each region included in the shortage list, 2008.



Source: Decree of 18 January 2008.

Furthermore, the “Skills and Expertise” residence permit (la carte “compétences et talents”) is a temporary permit valid for up to three years at a time on a renewable basis, enabling the holder to perform salaried or business activity in France. It is designed for foreign nationals who have the potential to make a significant enduring contributions to the economic development, particularly in intellectual, scientific, cultural, or humanitarian fields and sports, in France and their native country.¹⁴¹ The permit is very difficult to obtain. For example, for athletes in individual Olympic sports, the applicant must have been a national champion in the country of origin, during the sports’ season preceding the application or must have participated as an official competitor in continental or world championships.

This permit also enables foreigners to register their business project with the Commerce Registry (Registre du commerce et des sociétés). The authorization takes into account the quality of the project and its utility for France and for the country of the migrant’s nationality.¹⁴² The foreigner has to apply to the prefecture at least four months before

¹⁴⁰ Another decree of 18 January 2008 established a list of 150 jobs opened to national citizens of the new member States of the EU which are subjected to transitional arrangements. These countries are Estonia, Latvia, Lithuania, Hungary, Poland, Czech Republic, Slovakia, Bulgaria and Romania. These 150 jobs represent about 40% of the job offers registered at ANPE every year. Besides, during its presidency of the EU, France put an end to the transitional period for Member States nationals which joined on May 1st, 2004. Thus, since 1 July 2008, the national citizens of these countries can freely have access to the French labour market, except for Bulgarians and Romanians.

¹⁴¹ Article L 315-1 to L315-9 of Code de l’entrée et du séjour des étrangers et du droit d’asile (CESEDA).

¹⁴² Interviews conducted with graduates of foreign origin (ten in total, coming from Morocco, Tunisia and Senegal in Ile-de-France, Aquitaine and Midi-Pyrenees) who enter under this category, show that the prefectures do not

the authorization expires. Foreigners from the “priority solidarity zone” are also eligible provided that partnership for co-development has been established by France and the relevant country, or if the foreigner commits his or herself to return after a maximum of six years. Similarly the spouse and adult children of the “skills and expertise” card holder obtain a residence permit automatically and are thus authorized to work. In this vein, a 2008 report of the Senate discussed the first results of the implementation of the new immigration policy by the relevant authorities (consulates, labour offices, National Agency for Reception of Foreigners and Migrants (ANAEM)). The report did not consider the ‘skills and talents’ card very successful. For 2008, the government intended to deliver 2,000 cards, 1,000 through prefectures and 1,000 through embassies. In June 2008, only 44 cards have been delivered in total. In particular, this is explained by the delayed implementation and limited awareness-raising on the card, and rather restrictive eligibility criteria. In addition, the card lacks the legal stability in the medium and long-term that skilled migrants seek, as the permit is renewable once for three years.

The third aspect of the new legislation pertains to students. The temporary student residence permit gives holders the right to carry out secondary professional activity for up to 60 per cent of a full-time year (964 hours). No additional work permit is required and a straightforward declaration to the Prefect of the department where the student lives prior to commencing their work is all the employer is obligated to complete.

Once the permit is valid, students who have obtained a master’s degree or equivalent can be granted a provisional residence permit, valid for six months (non-renewable). They are then authorized to seek and accept a related job.¹⁴³

The remunerated temporary residence permit (La carte de séjour temporaire “salarié en mission”) was created in direct response to the needs of company groups and establishments for intra-company transfers. This permit includes the right to work and is valid for up to three years at a time on a renewable basis for employees expatriated by their parent company to a French subsidiary or assigned within the same group.

The new laws encourage some labour immigration, but at the same time the general conditions of entry and stay of newcomers have been tightened. In particular, the law tightens conditions for family reunification. The principle of systematic regularization after ten years of presence on the territory has been abandoned.

In November 2007 further legislation was adopted that again tightened the entry conditions for foreigners, requiring the assessment of French language proficiency for obtaining a visa under family reunification. A family integration contract will oblige parents to ensure successful integration of newly arrived children. In case of non-compliance, the juvenile court may be asked to intervene and payment of family allowances can be stopped. Furthermore, the income threshold necessary to be eligible for family reunification will be set according to the size of the family.

show great enthusiasm in issuing residence cards. In some cases, the prefectures took two years to ultimately respond negatively to the application of a young doctor of economics (Bouoiyour, 2010).

¹⁴³ This authorization also enables them to carry out secondary professional activity under the same conditions as for the student residence permit. Once students have obtained their degree, they can begin full-time work by applying for a “Skills and Expertise” residence permit (but only once they have concluded the contract related to their studies, and receive remuneration at least 50 per cent greater than the Minimum Wage in France (SMIC), 1,980 euros gross as of 1 July 2008).

Institutional and Policy Framework for Integration

The French concept of integration evolved from a pragmatic socio-economic approach in the early decades of immigration towards the policy of assimilation. It has also resulted in drastic changes in the handling of immigration, replacing “a largely ad hoc pragmatism” with an explicit theorized model, based on values (Favelle, 2001).

The strategy adopted in France to overcome the difficulties of access to employment and reduce unemployment of migrants and their children is that of indirect targeting.

On the local level, the National Council of Cities (body composed of the local politicians, parliamentarians, representatives of associations, social partners), calls for a strengthened local policy on the reception and integration of migrants. Poor urban areas are often the first to welcome and provide housing to immigrants. The Council recommends establishing systematic language trainings, to allocate direct funding for projects that foster integration, diversity, equality and cohesion, and to redeploy the state resources towards regions receiving massive immigration inflows.

Active Labour Market Measures

Platforms of vocation (ANPE) established in 2005, are one of the key tools of youth placement. This method allows for avoiding the usual criteria for recruitment, as lack of experience and/or diplomas in this case are a barrier to being hired. The participants are evaluated through a simulation of the working environment by a “platform” which is composed of the ANPE staff. Candidates which pass the evaluation may be presented to the employer. More than 70,000 job seekers have been job-placed between 2005 and 2007 by such platforms. The goal is to reach 180,000 evaluations (100,000 evaluations of young people) and 60,000 placements per year from 2008.

In 2006, the French administration had undertaken to support the actions by companies to promote equality. It participated in the promotion of the diversity charter now signed by over 2,500 firms and other employers (local authorities, public institutions) and supported the development of tools for implementing the charter. The promotion of the charter on the entire territory aims to raise the number of signatory companies, especially among small and medium-sized enterprises.

Since the creation of the diversity label in December 2008, 25 companies have been labelled having some 490,000 employees altogether (2009). In the first quarter of 2010, 90 companies have obtained the label that certifies the implementation of diversity policies within the organization.

Discrimination in Employment

There is a large discrepancy between the egalitarian republican discourse on the one hand and the economic and social reality of ethnic discrimination on the other. At the same time, disaggregate data on ethnic discrimination is not available, as the republican discourse denies the gathering of statistics considered ethnic.

There are three kinds of discrimination based on nationality (Fougère and Safi, 2008): legal discrimination (20% of the labour market is closed to foreigners: civil service, public sector, professional and independent), rational discrimination (the cost of employing a foreigner) and unlawful discrimination (racism and prejudice).

Indeed, in France, several sectors of economic activity are directly or indirectly closed to foreigners, including a large part of public and nationalized sector jobs. Thus, EDF, GDF, SNCF and Air France can only hire workers of French nationality. Similarly, a foreigner can not run a bar or tobacconist's shop, an entertainment company, a private institution of technical education; cannot be director of a periodical or a broadcasting company, is excluded from a range of business transport, insurance companies and commerce. Indeed, nearly 600,000 private sector jobs are closed to non-EU nationals, except when bilateral agreements exist between France and the country of origin.

The Survey on French values (SLE), published in April 2009¹⁴⁴ and financed by the Department of Immigration helped to highlight some views among French society on migrants (SOPEMI, 2009). According to the findings, the French appear to be more tolerant than in the past towards foreigners and migrants. In 2008, only three per cent of population would not like to have neighbours of another race against nine per cent in 1990 and 1999. Only four per cent fear the proximity of migrants against respectively 13 and 12 per cent in 1990 and 1999.

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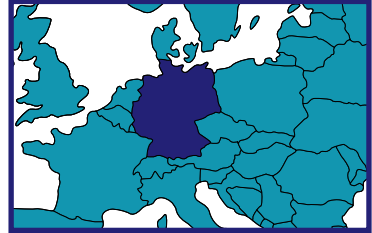
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GERMANY

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Germany's policy towards migrants as well as German institutions have followed a reactive and subsidiary approach to migration issues. Up to 2005, many decisions on the resident status of migrants and the various degrees of their labour force participation were under the discretion of the local authorities with little transparency. Welfare services for migrants were provided by NGOs and other religious and charity organizations, rather than by the federal government.

In 2005 the Immigration Act came into effect officially recognizing immigration as part of the German reality, and allowing non-European nationals to immigrate to Germany for work and settle permanently. It mainly favours highly skilled workers from outside the European Union (EU). While it has tough security provisions, it allows foreigners to obtain citizenship and has a much more proactive stance towards integration.

Institutional Framework for Admission and Employment

The 2005 Immigration Act identified three types of stay and residence permits: 1) permit of stay, 2) settlement permit and 3) residence permit. Employment and residence permits are very much interlinked in Germany.

For citizens of third countries who enter for the purpose of seeking employment in Germany, issuance of a residence permit for gainful employment requires the approval of the Federal Employment Agency (BAMF, 2009). Residence permits may be issued for up to three years for employment purposes and are subject to demand for work and scrutinized respectively to the unemployment rate in Germany. A resident title

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that permits employment may only be granted provided that employing migrants does not have a negative consequence on the labour market and there is no German able to fill the available positions. Residence permits can be prolonged without a new labour market test after employment of at least one year with the same employer.

Third-country nationals who have held residence permits in Germany for over five years may be granted settlement permits which remove any limitations to labour market access.

Spouses of third-country nationals have a right to family reunification if the spouse who lives in Germany has a permanent residence permit, a residence permit for at least two years, or a residence permit that already existed at the time of marriage and the duration of stay is expected to be longer than one year. Family reunification is also granted only if both spouses are of age. It is required that with some exceptions, the spouse who is coming to Germany be able to speak German with at least a low proficiency level. If the spouse or the parents are permitted to be employed in Germany, their entry into the labour market is unrestricted. In other cases, the labour market entry is permitted without a labour market test only after two years. The spouse of the third-country national cannot become self-employed immediately and has to wait for two years post arrival.

The right of residence for spouses becomes independent of the purpose of family reunification if the long-term family relationship existed for at least two years and the spouses get a divorce or the German family member dies. The time limit of two years does not apply if the reason for divorce is domestic violence. After two years, the spouse maintains the right to apply for any job or to be self-employed even if the relationship ends.

If a foreigner has successfully completed a top degree at a German university, a residence permit can be prolonged for up to one year in order to search for a job where migrant recruitment is permitted. This is the latest effort to keep highly skilled migrants in Germany.

Highly skilled labour is eligible for an unrestricted residence permit after a minimum period of stay, but also immediately if the applicants can prove that they earn a salary of 85,000 euros. Their family members who come to Germany with them or join them at a later date are entitled to take up gainful employment.

Self-employed persons receive a residence permit if they invest at least 250,000 euros and create a minimum of five jobs. If these requirements are not met, each case is examined on its own merits to determine whether there is an overriding economic or specific regional interest, to assess the impact on the economy and to check the business' financial basis. Critics raise doubts that the Federal Labour Agency can obtain all necessary information in order to make proper decisions in the case of each application (Zimmermann et al., 2007).

Seasonal workers or contracted workers can be employed in Germany for four months annually to fill specific labour shortages in agriculture, hotels and restaurants. There is an exception to the 1973 ban that mostly pertains to the Central and Eastern Europeans. Nationals of the new EU Member States need a work permit to engage in these activities, and non-EU nationals need a residence permit. In construction

and metal industries, temporary migrant employment is allowed for up to 18 months without the possibility of re-entry, provided that they are younger than 40, pay social security, speak German, and have completed vocational training.

In 2000 the Green Card scheme for highly skilled migrants was announced as a temporary programme that allowed up to 20,000 skilled professionals from outside the EU to work in Germany for up to five years. These specialists should have held a degree in the relevant field and have already stayed in Germany. Otherwise they needed to provide proof of a job offer with an annual salary of at least 51,000 euros. Ultimately, only 11,500 such permits were issued from August 2000 to March 2002. The programme was officially abandoned in 2005.

Institutional and Policy Framework for Integration

The new reformed integration system came into effect only in January 2005. Before that, integration programmes were rarely available; and those on offer were inadequate. Most importantly, there were no sanctions or accountability clauses tied to them. Migrants are now legally entitled to attend an integration course. This pertains to new migrants, who are about to take up permanent residence in Germany and have received their first residence or settlement permit on humanitarian grounds. Migrants who do not have simple oral language skills are under an obligation to participate in an integration course.

In 2005, language courses for adult migrants in Germany were implemented. Language courses, within the integration course, need to be passed. They reflect significant knowledge of the German language similar to Level B1 or above of the equivalent requirements in the European Framework. The language integration courses consist of a total of 600 academic hours.

Other integration courses, also known as orientation courses, include basic knowledge of German society, politics, culture, history and the legal system. Striving to accommodate all targeted groups' needs, the programme also offers special integration courses for young adults, women, parents, the illiterate and long-term residents. There are two final tests at the end of the integration programme including one language test and one orientation course test. Attendees of this integration program may repeat 300 hours and retake the final exams if they have not met the goals of the course by the end of the program. These courses are administered by public or private service providers.

Concerning the integration courses tailored to the needs of parents and/or women there has been an overall increase of 11.4 per cent in the acceptance rate. Special attention is paid to the provision of childcare facilities. Youth integration courses are tailored to young migrants of up to 27 years of age who wish to prepare themselves for school attendance or for higher or vocational education in Germany. Low educational outcomes of migrant youth are partly attributable to the peculiarities of the German education system; namely, the late starting age in kindergarten, the half-day schooling in kindergarten and elementary schools and the existence of tracks that are decided very early in life.

Until 2008, there were more than 30,000 integration courses. The total number of those with the right to attend an integration course was approximately 600,000, while

only a total of 210,000 have finished a course. Migrants who do not meet the standards of the integration courses are immediately notified by the immigration office and are informed of the consequences, such as the non-renewal of the temporary residence permit, denial of a permanent residence permit, denial of fast-track naturalization, and reduction of social transfers by up to ten per cent.

In line with the language programme, since April/May 2007, a longitudinal panel has been set up to track the evolution of programme participants. The results show that participants in both waves are very strong in listening, and in everyday conversation. However, when it comes to writing, they do not perform well. Given the importance of these skills for labour market integration, the panel made some specific recommendations to improve the content (Rother, 2009).

Active Labour Market Measures

Practical training that is directly related to the labour market integration of migrants is offered by the Chambers of Commerce and the Chambers of Trade. These organizations advise both apprentices and employers on vocational training, and certify providers of vocational training and apprenticeships. Vocational training is more important and valuable to the second generation than it is to the natives because descendants of migrants often finish the low or intermediate educational track. Lack of this training significantly hampers the employment prospects of the second generation and makes them vulnerable to unemployment spells.

The importance of self-employment – especially as a way out of unemployment – is now actively supported by the government. In 2003, the “Me-Inc” or “Ich-AG” programme as well as the “bridging allowance” or “Überbrückungsgeld” were introduced.¹⁴⁶ These measures, however, were not very successful and were not often used by migrants. Using data from the GSOEP, Constant and Zimmermann (2004) find that natives’ transition probabilities from unemployment to self-employment are more than twice as large as those of migrants, meaning that self-employment is more likely to be used by natives than migrants. Obvious culprits are credit market imperfections, labour market rigidities, legal structures, and administrative red tape that disproportionately deter migrants from using self-employment as an outlet. Germany’s high regulated system also requires that most workers have a specific professional training (*Ausbildung*). This is another impediment to going into self-employment because many migrants leave school without acquiring this training.

Discrimination in Employment

Germany implemented the EU directives against discrimination mostly through the Allgemeine Gleichbehandlungsgesetz (AGG) or General Equal Treatment Act enacted in 2006. The Act provides for a strong framework against discrimination in employment, including for those who apply for a job or an apprenticeship, work from home, work

¹⁴⁶ These measures are now abolished and replaced by other initiatives.

on subcontracts, appear to be self-employed, but work for the same company on a regular basis.

Germany's integration measures do not focus on anti-discrimination. Anecdotal evidence suggesting discriminatory practices against migrants in the German labour market has not been corroborated by scientific studies. Discrimination is difficult to capture empirically and may often be masked by other deficiencies pertaining to migrants' positions.

Kaas and Manger (2010) studied ethnic discrimination in Germany's labour market with a correspondence test. That is, they replied to student internship advertisements with two similar applications that only differed by the applicants' names. They found that an applicant with a German name raised the average probability of a callback by about 14 per cent. However, when the authors included reference letters with favourable information about the candidate's personality, the gap disappeared.

In response to concerns, the Federal Anti-Discrimination Agency (ADS) has now initiated a project to test anonymous job applications.

Commendable best practices include the recent "Diversity Management" campaign (ending in 2008).¹⁴⁷ The Charter of Diversity, signed by about 300 companies, also acknowledged Germany's ageing society, changing consumer market demographics and brain waste among migrants.

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GREECE

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Migration policy in Greece is rather restrictive and stipulates an extremely complex process both for admission procedures and the renewal of residence permits. Some researchers (Gropas and Triandafyllidou, 2005; Linardos-Rulmon and Kapsalis, 2005, Kapsalis, 2007) have underlined that the current institutional framework¹⁴⁹ can be considered responsible for ignoring the large number of irregular migrants as well as for the failure of many migrants to maintain their residence permits.

Since the first regularization programme in 1997¹⁵⁰ both programmes of massive regularization of undocumented migrants (Law 2001, Law 3386/2005 - 3536/2007), as well as the framework for the renewal of residence permits are based on the obligation of the foreign resident to submit a certificate of insurance, with a specific number of stamps¹⁵¹ within 12 months (150 or 200 stamps on average per sector of employment) (Kapsalis, 2002, Kapsalis 2007). Thus, there is a link between access to legal residence and proof of (paid) work. In addition, since 2001 all residence permits have a maximum validity of one year and after 2005 – of one year or two years (after the second renewal). Two months before the expiry of the permits those involved are to repeat a highly bureaucratic (employment contract, health certificate, certificate of the insurance carrier) and expensive (150 euro deposit cost, lost wages in endless queues) process to renew the residence permit themselves.¹⁵² According to Kapsalis (2008b,

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¹⁴⁹ Some of the main obstacles for the renewal of a residence permit are the following: proof of a written employment contract and a health certificate from a public hospital; number of stamps; ties to a specific employer or place of residence.

¹⁵⁰ Presidential Decrees 357 and 358/1997

¹⁵¹ Under the Greek labour law a stamp represents a day of work/insurance. Thus, a full employment involves 25 stamps per month or 300 stamps per year. The collection of stamps is necessary for the acquisition of a series of rights for all workers in the country (health card, unemployment benefit, retirement etc.)

¹⁵² Within the period 2001-2005 migrants had to go through this process twice since first they had the work permit issued and then based on it they had the residence permit issued (Kapsalis, 2002). By the Law 3386/2005 the renewal system has been simplified and both permits have merged into one (residence permit for paid employment, for self-employed person).

2009b) since 1997, Greece has adopted an informal policy of migrant regularization, where the responsibility of proving the need of foreign workers in the Greek labour market lies with the migrant.¹⁵³

Another feature of the migration policy is the geographical proximity of the countries of origin to Greece, the case for almost two-thirds of migrants. This has led on the one hand to the creation of an informal network that facilitates the access of new migrants to the labour market; on the other hand to permanent or temporary return to the country of origin especially in case of unemployment (Kapsalis, 2008a).

As a result of migration policy complexity, migrants develop a sense of temporariness and social instability, hampering any long-term perspective in the country of destination. The low labour costs of informal work and the insecurity of residence status constitute the biggest deterrent for the observance of labour and social security legislation for both employers and employees. A positive improvement would essentially include support measures and tax exemption in particular for small companies (including private employers/households). In addition, developing circular migration programmes with the recognition of pension rights, could serve both the workers themselves, and the national strategic objectives.

Institutional and Legal Framework for Admission and Employment

Employment policy in Greece is developed in terms of ‘self-regulation’ due to the following factors:

- The increasing demand for (unskilled) labour on the one hand and on the other hand, the widespread tolerance of irregular migration, undeclared work and social security evasion.
- The inferior role of the State in determining conditions of entry, residence and employment of migrant workers. In particular, the State tried to regulate by law the residence and employment status of migrants years after the mass influx of migrants occurred.
- Migration policy does not take into consideration the needs of the Greek economy, reform of labour legislation or the sustainability of the Social Security System (SKA).

Greece has not implemented any policies to attract highly skilled or other specialised immigrants. State intervention on admission policies continues to be relatively limited, being relevant mainly in the so-called process of *metaklisis*,¹⁵⁴ which concerns a small number of individuals. According to this procedure, a Committee has been established in each of the regions¹⁵⁵ for reporting the shortages in the labour force of the region as well

¹⁵³ Migrant is required to hold a contract of employment and a certain number of working days in a year.

¹⁵⁴ Article 14, Law 3386/2005.

¹⁵⁵ The Committee is composed by the Secretary General of the region and representatives of the Greek Manpower Employment Organisation, the Board of Labour Inspectors, the Local Chambers of Commerce and Industry and other related labour organisations

as the vacant places of employment, which could potentially be filled by third-country nationals. On the basis of this report, a joint ministerial decision is then issued stipulating the maximum number of residence permits available to third-country nationals for the purposes of paid employment and seasonal work in the following year (EP/IOM, 2008).

One exception is seasonal migration, almost exclusively for the harvest in northern Greece. Access on the labour market of these migrants (about 5,500 per year) is enforced on the basis of bilateral agreements with their countries of origin (generally neighbouring countries), while the relevant residence permit is issued for a maximum of six months and without any right of renewal.¹⁵⁶

Regular migrants have access¹⁵⁷ to the labour market sometimes directly and automatically, and at times after approval by the competent authority. Only a small group of migrants has access to any business activity.¹⁵⁸ Direct access to dependent employment, services or specific work is granted to permit holders for humanitarian or exceptional reasons and permits are extended or reimbursed under the legalisation programme.¹⁵⁹ The majority of documented migrants only have access to: a) dependent employment, b) services or specific work, as long as their permit has been issued for one of those two purposes. Family members and students can access the labour market after special approval.

Access to self-employment requires a specific permit for self-employment or investment activities.¹⁶⁰ However, it should be noted that the right to self-employment for migrants has been largely restricted in recent years. Among other substantive requirements, Law 3386/2005 introduced a 60,000 euros deposit as minimum adequate resources for an independent economic activity, and Law 3377/2005 prohibits licenses of outdoor trade to third-country nationals (Mavromatis, 2008).

Semi-official migrants, those who have a pending application for their permit renewal, are considered regular residents and have access to employment (dependent employment, services or specific work), although for starting a new activity additional conditions should be met.

Residence permits for the purpose of residence are granted for a maximum period of two years, self-employment permits for two or three years, seasonal work permits for a maximum period of six months (with no right of renewal) and permits for the purpose of family reunification for a period of one year which is subsequently renewed every two years (European Parliament/IOM, 2008).

Migrants face restrictions on their free choice of an employer, changes in profession or modifications of the employment relationship and changes of their place of work. After one year of holding a residence permit, third-country nationals may be employed in a different prefecture or a different region (EP/IOM, 2008).

¹⁵⁶ Article 16, Law 3386/2005.

¹⁵⁷ Circular 28023/10-11-2009 of the Interior Ministry on "Providing clarification on issues that arise during the implementation of Law 3386/2005".

¹⁵⁸ Family member of an EU citizen or Greek citizen, *homogeneous* or those with an indefinite period permit, a ten-year period permit, a long-term residence permit, a residence permit of a domestic minor's parent.

¹⁵⁹ Article 11 of Law 3386/2005.

¹⁶⁰ Access to the self-employed activities is allowed also to those who hold a permit for exceptional reasons or ethnic repatriates coming from Albania, provided that it is explicitly allowed by their permit.

Institutional and Policy Framework for Integration

Two recent initiatives have been developed in 2007 to encourage better integration of migrants. From an institutional perspective, the National Commission on the Social Integration of Immigrants¹⁶¹ creates a prosperous arena for social and government stakeholders to discuss integration issues.

From 2001 onwards the National Action Plan on Employment and the National Action Plan on Social Inclusion are aimed at tackling social exclusion and strengthening social cohesion. On the basis of these strategies, regular migrants and other vulnerable social groups are entitled to participate in labour market support measures such as vocational training, information campaigns regarding labour rights, or language courses.

One of the main objectives of these measures is the shift from undeclared work to regular employment, as in the case of the EQUAL initiative focused on the proposal of legislative modifications concerning the residence permit and labour status.

From the employers' perspective, joint initiatives with trade unions and migrant associations on raising awareness on social exclusion, discrimination and undeclared work have been set up (Kapsalis, 2007d).

Discrimination in Employment

In Greece the level of acceptance for immigration among the natives is relatively low. Moreover, the general feeling of insecurity for all migrants, both in relation to their (legal) residence, and their (legal) employment, dramatically reduces any incentive for them to escape from unsecured and undeclared work, and consequently the enjoyment of all social rights connected with legal work. According to the Survey on Income and Living Conditions (EKKE-ESYE, 2003), the share of migrants in precarious/temporary employment is very high (47.8%), especially when compared to the same figure for the natives (24.1%) (Maratou-Alipranti and Gazon, 2008).

Greece has adopted a law on equal treatment only in 2005 (Law 3304) based on the transposition of the EU anti-discrimination directives (2000/43 and 2000/78). More active legislation on equal employment would have a positive impact on the position of migrants in the labour market and the combating of brain waste (Demoussis et al., 2008).

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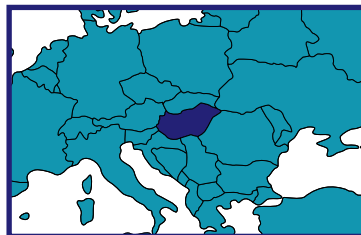
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HUNGARY

Alin Chindea¹⁶²



The status of ethnic Hungarians living in the neighbouring countries has extensively shaped the policy and politics of migration, yet the debates never resulted in a migration policy but in what is called a “policy of shaping national identity” (Toth, 2000 and Hegyesi and Melegh, 2002 in Kovats et al., 2003: 1). In other words, ethnicity plays an important role in engendering, patterning, and regulating migration in Hungary (Brubaker, 1998).

Institutional and Policy Framework for Admission and Employment

In 2000, the Office of Immigration and Nationality (OIN) was created to serve as an integrated institution dealing with naturalisation, migration and asylum issues, under the direction of the Ministry of the Interior.

Following the 2006 elections, a structural reform took place when Ministry of the Interior and Ministry of Justice were merged in the new Ministry of Justice and Law Enforcement (MOJLE) also with the OIN in subordination.¹⁶³ Specifically, the Department of Coordination in Justice and Home Affairs and Migration has the overall responsibility in the area of migration, asylum and integration.

MOJLE and the Ministry of Social Affairs and Labour (MOSAL) are the main actors in the field of migrant admission and integration. MOSAL is responsible for employment policy in the field of migration and asylum, including determining the rules and quotas on work permits. The implementation of the relevant laws is the competency of the Public Employment Service.

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¹⁶³ The newly formed government – following parliamentary elections in April 2010 – has undone this merger in Act No. XLII. of 2010 on listing the ministries of the Republic of Hungary. Available online at: <http://www.complex.hu>

To work in Hungary, third-country nationals have to meet several requirements:

- A long-term residence visa for the purpose of employment (for more than three months) issued by the regional directorates of OIN upon application of the third-country national to the embassy/consulate abroad,
- A residence permit for the purpose of gainful employment (application of the third-country national to embassy/consulate abroad; issued by the regional directorate of OIN),
- A work permit (issued by the labour office upon application of the employer).¹⁶⁴

After the visa/residence permit is obtained by the third-country national, an employment contract is signed between the migrant worker and the employer. Sixty to fifteen days before submission of the formal application for the work permit, an employer has to register the vacancy notice and the workforce request¹⁶⁵ at the branch of the labour office respective to the place of the future employment. The workforce request can be submitted if the job advertisement has been posted for at least a month and the position could not be filled with locally available manpower. Furthermore, the branch examines whether a Hungarian or an EU/EEA national or any relatives of such nationals,¹⁶⁶ are registered as job-seekers and are available to carry out the job listed by the employer.

According to the EMN study (2009) the authorities also inspect whether the criteria set by the employer in the job description are relevant and if not the request can be refused. This follows a trend identified by employment offices whereby employers set criteria in the job advertisements that exclude Hungarian nationals, such as language proficiency, and skills that cannot be obtained in Hungary, or international experience. Examination of the terms of reference proposed by the employer appears unjustified for a number of reasons. In particular, the annual quota on work permits issued to third-country workers is set by the MOSAL.¹⁶⁷ However, this quota has never been filled (for example, the quota was 65,000 in 2008 and 42,457 permits were issued). On the one hand, many employers refuse to initiate the lengthy bureaucratic procedures once they learn that the applicant is a third-country national (Peto et al., 2010). There remain thousands of unfilled jobs in the long term regardless of the state efforts to increase the participation rate of inactive Hungarians and their employability.

Once the workforce request has been approved, the employer is required to submit an application for a work permit to the capital/county labour office (thus, different from the one where the workforce request is lodged). For a work permit to be issued,

¹⁶⁴ The ministerial decree on the labour authorisation – Ministerial Decree No. 8/1999 (XI.10.) SzCsM on work permits issued to foreign nationals – is available in Hungarian at <http://net.jogtar.hu>. The Ministerial Decree 16/2010. on the employment of third-country nationals overruled this decree and entered into force at the end of May 2010.

¹⁶⁵ Except in the case of workers hired within the quota determined in bilateral agreements. For certain jobs a labour market test is not necessary, but the labour authorization is still required.

¹⁶⁶ Ministerial Decree No. 16/2010 paragraph I (3) 6. http://ec.europa.eu/ewsi/UDRWV/images/items/docl_15106_909019678.pdf

¹⁶⁷ The Ministerial Communication is published in the Official Gazette on 1 February of each calendar year. The quota may not exceed the average monthly number of workers requested by employers as reported during the previous year. This number, rounded to the nearest thousand, shall be calculated by adding up the number of job vacancies on the first of the month and the number of new requests arriving during the month to fill job vacancies.

there are several other conditions the employer has to meet. Among these, there has to be a guarantee that the monthly salary will be no less than 80 per cent of the national average in the given sector, the employer may not be under a labour inspection procedure or have had a fine imposed on them within the past year (if it has been paid), or within three years if the fine had not been paid. In addition, there cannot have been significant lay-offs at the company within the preceding year, or an ongoing strike at the time the application is submitted. The work permit is valid for two years (a provision introduced in 2008, before it was just one year) and can be renewed for the same period. However, for renewal the entire original procedure has to be repeated (EMN, 2009).¹⁶⁸

Once granted a work permit, a third-country national can apply for the temporary residence permit for gainful employment; its duration cannot exceed three years and may be renewed. In practice, the duration of a long-term visa and the residence permit for gainful employment correspond to the duration of the validity of the work permit, which may be issued and renewed for a maximum period of two years. The migrant can apply in Hungary for an extension of his/her residence permit. When the work contract is terminated, the employer is obligated to duly announce this fact to the Labour Office, which in turn immediately withdraws the work permit. The law stipulates, that in case of finding a new job the whole procedure needs to be repeated, but is unclear on whether the migrant has to leave the country to apply for another permit. With the new Ministerial Decree (SZMM) 16/2010 on the employment of third-country nationals, the employers can notify the Employment Office ten days prior the expiration of the work permit, if they wish to extend it. In this case, the labour market test is not necessary anymore.

Recognition of qualifications takes three months, and two months for determining the equivalency of educational achievements. These periods can be prolonged by one month in certain circumstances. Therefore, a non-EU job applicant in Hungary will have to wait for approximately four months to be able to submit all the required documents to the employer and then wait further for the issuance of the work permit.

In order to fill labour shortages in agriculture,¹⁶⁹ a basic scheme exists for employment of seasonal workers. Such migrants need to obtain a seasonal employment visa and a seasonal work permit. A visa can be for single or multiple entries, and is issued for a maximum duration of employment of three months within six months. The seasonal work permit is valid for a maximum duration of 150 days within a twelve-month period. These permits are subject to an annual quota and cannot be renewed. Under this type of a work permit, seasonal workers may change employers and interrupt their stay in Hungary without losing their permits.

A simplified employment scheme was introduced by the new Act No. LXXV.,¹⁷⁰ in force as of August 2010. This scheme introduces more flexible rules for the employment of

¹⁶⁸ Ten euros for work permit; ten euros for registering the labour force request; and ten euros for posting a vacancy announcement.

¹⁶⁹ Work permits issued in 2004-2006 were almost exclusively granted to the Ukrainian nationals (source: personal communication with representative of the Hungarian Ministry of Justice and Law Enforcement) and most of them undertook work in south-eastern Hungary.

¹⁷⁰ This Act brings under the state regulation previously "unregulated" jobs such as, among others, domestic and seasonal labour.

some categories of third-country nationals, particularly in agriculture, domestic work and occasional work. This legislation also contributes to reducing the administrative burden on employers, for example through the introduction of a simplified, electronic (employee) registration procedure or reduced labour force costs. The number of working days cannot exceed 90 days for occasional work and 120 days for agricultural work¹⁷¹ within a calendar year.

Family members of third-country nationals can obtain a work permit without a labour market test if he/she has been living for one year in Hungary with a person holding a Hungarian long-term visa, temporary residence, national or interim permanent residence permit or an EC long-term permit.¹⁷²

Institutional and Policy Framework for Integration

MOJLE, through its Department of Coordination in Justice and Home Affairs and Migration, supervises government measures related to the promotion of integration of foreigners with the support of a working group set up in June 2008. The working group on foreigner integration is comprised of all the relevant stakeholders working in this field (members of the ministry, representatives of other ministries, NGOs, international organizations), and serves as a discussion and coordination forum for various activities including the management of national and European funds.

The recent Act on Asylum (in force as of 1 January 2008) has broadened the range of free language courses and exams not only to refugees, but also to beneficiaries of subsidiary and temporary protection (EMN, 2008: 21). However, for other categories of third-country nationals no state-funded language or vocational training programmes are available. The employer can provide employees with access to language classes, but it is not compulsory and is usually the case in multinational companies. As Toth (2007: 7) underlines “there is neither a formal requirement nor substantial criteria relating to the integration of migrants into the Hungarian society and economy”.

Discrimination in Employment

The Hungarian anti-discrimination law protects against discrimination on the grounds of race, ethnicity, religion, belief, and nationality. However, this legislation has very rarely been applied, especially in cases involving migrants (see also Hajduk, 2008). The Equal Treatment Authority was set up in 2005 with the task of dealing with complaints regarding unequal treatment, and to efficiently implement the principles of equality. Since its establishment, four complaints have been submitted to the body. In one of these, an Iraqi citizen requested an investigation on the basis of his alleged sacking due to nationality. The authority declined its competence as the claimant had also addressed the Labour Court whose decision will be binding for the Equal Treatment Authority.¹⁷³

¹⁷¹ Act No. LXXV. of 2010. paragraph 2. point 1, 3 c) <http://www.complex.hu>

¹⁷² Act No. II. of 2007 paragraph 19. (1).

¹⁷³ For details, see <http://www.egyenlobanasmod.hu/index.php>.

According to Dencso-Sik, anti-foreigner sentiments has doubled in the years between 1993 and 2007 (Dencso-Sik, 2007 in Hajduk, 2008). In a survey conducted in 2007, 46 per cent of respondents indicated that they would not accept a Chinese person as their neighbour, 44 per cent would not accept a Muslim person, and 43 per cent declared that they would not accept a migrant in general as their neighbour. Further eleven per cent would not wish to live next to a Hungarian from Transylvania (Ithaka-TARKI, 2007 in Hajduk, 2008).

In another survey¹⁷⁴ carried out in June 2009 and publicized at the beginning of January 2010, 35.5 per cent of the respondents held the view that a foreigner was less likely to get a job than others, to be promoted or to receive training. The study also found that the majority of the local population perceives that ethnic discrimination is prevalent, but at the same time has no knowledge of the existence of laws for punishing discrimination based on ethnic grounds in the labour market.

Non-EU migrants have the same rights as the natives when it comes to membership in trade union associations and work-related negotiation bodies. However, in practice migrant workers are neglected by trade unions when concluding collective agreements.¹⁷⁵

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¹⁷⁴ The survey was carried out by the TARKI Social Research Institute at the request of the Budapest-based Corvinus University in the framework of a project financed from the European Integration Fund.

¹⁷⁵ Interviews with leaders of two major private sector confederations, National Association of Hungarian Trade Unions (Magyar Szakszervezetek Országos Szövetsége) and Democratic League of Independent Trade Unions (Független Szakszervezetek Demokratikus Ligája) carried out by Ágnes Hárs and László Neumann in 2007.

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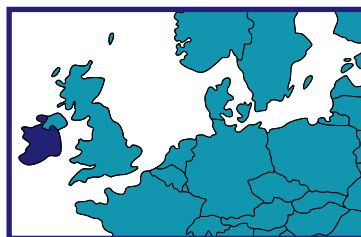
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1993b Governmental Decree No. 125/1993 on the implementation of Act No. LV. of 1993 on citizenship http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99300125.KOR
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- 2007c Act No. II. of 2007 on the entry and residence of third-country nationals <http://www.complex.hu/kzldat/t0700002.htm/t0700002.htm>
- 2007d Government Decree No. 114/2007 on the implementation of Act No. II. of 2007 on the entry and residence of third-country nationals http://www.mfa.gov.hu/NR/rdonlyres/BD910F77-12BF-43C7-B4D9-5A564237E463/0/071219_114_2007_harmtv_vhr.pdf
- 2007e Act No. LXXX. of 2007 on Asylum <http://www.complex.hu/kzldat/t0700080.htm/t0700080.htm>
- 2007f Government Decree No. 301/2007 on the implementation of Act No. LXXX. of 2007 on asylum - http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700301.KOR
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- 2010a Act No. LXXV. of 2010 on simplified employment (overruled the Act No. CLII. of 2009 on simplified employment) http://www.complex.hu/jr/gen/hjegy_doc.cgi?docid=A1000075.TV
- 2010b Government Decree No. 224/2010 on the amendment of Governmental Decree No. 125/1993 on the implementation of Act No. LV. of 1993 on citizenship <http://www.kozlonyok.hu/nkonline/MKPDF/hiteles/MK10127.pdf>

IRELAND

Diana Gouveia¹⁷⁶



Migration policy in Ireland has steadily developed as a response to increasing numbers of arriving migrants and the booming economy. It is characterized by openness towards highly skilled workers and restrictions on non-EU low-skilled labour, tied with increasing border control and control mechanisms against irregular migrants (Cosgrove et al., 2009; Pillinger, 2008).

The Government decided not to impose restrictions on labour market access for the Member States that joined the EU on 1 May 2004 thus facilitating a considerable inflow of EU10 nationals over the subsequent years. However, at the same time Ireland introduced additional restrictions for non-EU workers to pursue employment in Ireland. The exception to this policy was the attraction of highly skilled workers that still could only largely be sourced from outside the EU.

Furthermore, in 2004 a referendum removed automatic constitutional rights to citizenship for the Irish-born children of migrants (Fanning et al., 2007). The referendum took place in the context of the Common Travel Area responsibilities towards the UK¹⁷⁷ and coincided with “restrictions on welfare rights and entitlements upon

¹⁷⁶ Diana Gouveia is a researcher/consultant at IOM Dublin. The author would like to acknowledge the cooperation of representatives from the Economic and Social Research Institute, the Department of Enterprise, Employment and Law Reform, the Department of Justice, Equality and Law reform, the Irish Congress of Trade Unions, SIPTU, the Migrant Rights Centre Ireland, the Migrant Council of Ireland, the Department of Social and Family Affairs, the Employment Research Centre in Trinity College Dublin, and the Office for the Minister for Integration. Thanks are also owed to John McGrath and Jesmina Behan in FÁS for their time and the data they provided and, Siobhan O’Hegarty in the International Organization for Migration for her continuous help and support. A special thanks to Dr. Mark Maguire in the Department of Anthropology, National University of Ireland, for his advice, comments and suggestions. Any errors and omissions are the responsibility of the author.

¹⁷⁷ The Common Travel Area is founded upon administrative arrangements between Britain and Ireland. This has influenced the special status of Irish nationals in British laws and vice-versa, and is further reflected on the administrative cooperation in immigration laws between the two states. Furthermore, since the 1997 Treaty of Amsterdam, the Common Travel Area has acquired new relevance as the treaty confirms that Britain and Ireland would remain separate from the Schengen system of open borders. For further discussion on this topic see Ryan, Bernard, *The Common Travel Area between Britain and Ireland*.

migrants from the new EU member states” (Fanning et al., 2007: 439), in particular by the introduction of a “Habitual Residence Condition”.¹⁷⁸ In December 2008, the Irish Government announced the decision to continue imposing restrictions on access to the Irish labour market for Bulgarian and Romanian citizens.¹⁷⁹

In September 2009, the Minister for Justice, Equality and Law Reform announced the introduction of a scheme (sometimes referred to as ‘bridging visa’) for foreign nationals who have become undocumented through no fault of their own. This is a temporary scheme, for a maximum duration of six months, for work permit holders who have been living and working in Ireland for less than five years;¹⁸⁰ after this period the non-EEA national will be required to leave the Irish state unless an employment permit has been secured.¹⁸¹ The scheme is not a regularization campaign and each case is considered on its own merits.¹⁸²

The Irish Government, NGOs and scholars alike recognize the limitations with respect to the capacity of a largely *ad hoc* immigration policy to provide a framework for comprehensive migration and integration management. Furthermore, the lack of consistent qualitative research on the migrant population in Ireland and the shortage of reliable statistical data, have detrimental effects on the successful management of migration, and on the design, implementation and evaluation of integration policies.

¹⁷⁸ Habitual Residence (HRC) is a condition that all applicants to certain welfare payments (Jobseeker’s Allowance, State Pension (Non-Contributory), Blind Pension, Widow’s or Widower’s (Non-Contributory) Pension, Guardian’s Payment (Non-Contributory), One-Parent Family Payment, Carer’s Allowance, Disability Allowance, Supplementary Welfare Allowance (other than once-off exceptional and urgent needs payments), and Child Benefit) must satisfy, regardless of nationality. According to Section 246 of the Social Welfare Consolidation Act 2005, ‘it shall be presumed, until the contrary is shown, that a person is not habitually resident in the State at the date of the making of the application concerned unless he has been present in the State or any other part of the Common Travel Area for a continuous period of 2 years ending on that date’. However, the deciding officer, when determining whether a person is habitually resident in the State, shall take into consideration all the circumstances of the case and the applicant must prove that he or she has a close link to Ireland. This will be assessed through the following factors: (1) Main centre of interest, (2) The length and continuity of residence in Ireland or other parts of the Common Travel Area, (3) The length of and reason for any absence from Ireland, (4) The nature and pattern of employment (5) Future intention to live in the Republic of Ireland. The exact length of time of residence in Ireland before the HRC can be fulfilled is not set in writing in Social Welfare publications. For further information see <http://www.welfare.ie/EN/Publications/SW108/Documents/sw108.pdf> and <http://www.welfare.ie/EN/OperationalGuidelines/Pages/habres.aspx>

¹⁷⁹ Bulgarian and Romanian nationals continue to require an employment permit to work in Ireland and to be subject to the current requirement for a labour market test. However, the employment permit requirements apply only to the first continuous twelve months of employment in the State. At the end of this twelve month period a Bulgarian or Romanian national will be free to work in Ireland without any further need for an employment permit, see <http://www.entemp.ie/labour/workpermits/bulgariaromania.htm>

¹⁸⁰ All non-EEA persons who currently hold valid employment permits and have done so for 5 or more consecutive years will be exempted from the requirement to hold a work permit. This also applies to those who have since been made redundant. However, certain conditions will apply, see http://www.inis.gov.ie/en/INIS/Pages/Provisions_for_5_year_workers

¹⁸¹ For further information see <http://www.inis.gov.ie/en/INIS/Pages/Redundancy>

¹⁸² ‘[E]ach case will be considered on its own merits and applicants will be expected to demonstrate that they previously had permission both to reside and work in the State and that, on the balance of the evidence available, their subsequent illegal presence was not their fault but was due to the action or inaction of their employer’. Migrants who are not successful under this scheme and fail to secure a new employment permit are ‘expected to remove themselves from the State’, see <http://www.inis.gov.ie/en/JELR>

Institutional and Legal Framework for Admission and Employment

Migrant employment legislation falls under the remit of the Economic Migration Policy Unit in the Department of Enterprise, Trade and Employment (DETE) whose primary role is design, development and review of migration policy and access to employment, and to promote research on the contribution of migrants to the economy.¹⁸³ This department is also responsible for issuing green cards, employment permits and intra-company transfers to non-EU nationals and combating illegal and exploitative employment. Since 2007, and also as a result of the Social Partnership Agreement *Towards 2016*,¹⁸⁴ the Government has established the National Employment Rights Authority (NERA)¹⁸⁵ as an office of DETE.

Entry and residence legislation and specific immigration-related issues fall under the mandate of the Department of Justice, Equality and Law Reform (DJELR). Amongst other functions, this department holds the responsibility to legislate on visa policies, the removal of irregular migrants and failed asylum seekers, as well as border control and enforcement measures. More specifically, under the competences of DJELR are the Irish Naturalisation and Immigration Service (INIS) created in 2005 to provide assistance and information related to asylum, immigration, citizenship and visas, and the Garda National Immigration Bureau (GNIB) responsible for the enforcement of immigration policies, border control, registration of non-nationals and deportation orders.

Non-EU nationals requiring a visa can apply to one of the three categories: a transit visa; a C-Visa which allows the applicant to remain in the state for a maximum of three months; and a D-Visa which is issued for a period exceeding three months. Foreign nationals can apply to specific immigration categories, such as family reunification or employment/training. The latter includes applications to green cards, employment permits, intra-company transfers, graduate scheme, self-employment, and seasonal work.¹⁸⁶

Prior to 2003, the Irish work permit system was largely employer-led with little government intervention. Between 1999 and 2003 the number of work permits issued to non-EEA nationals increased from 6,262 to 47,551, and most of the permits were issued to low-skilled occupations. In 2000, work visa and work authorization was introduced to facilitate the recruitment of high-skilled workers from non-EU countries. The Employments Permit Act of 2003, which introduced criminal liability to an employer and/or employee in the case of a migrant working without the required employment permits, was an important step towards a more interventionist labour market policy.

¹⁸³ <http://www.entemp.ie/labour/>

¹⁸⁴ *Towards 2016* is a 10-year (2006-2015) social partnership agreement negotiated by the Irish Government, trade unions, employers, farming organisations and the community, and the voluntary sector. The key foundations of the agreement are 'a dynamic, internationalised, and participatory society and economy, with a strong commitment to social justice, where economic development is environmentally sustainable and internationally competitive' (*Towards 2016*). As an overall objective, the agreement aims to achieve a higher participation rate and a 'more successfully handling diversity, including immigration'. For further discussion see http://www.taoiseach.gov.ie/eng/Publications/Publications_Archive/Publications_2006/Towards2016PartnershipAgreement.pdf

¹⁸⁵ NERA was established on a statutory basis in 2008 with the mission to provide free and objective information on employment's rights and to achieve a culture of employment rights compliance.

¹⁸⁶ For further discussion see Cosgrove et al., 2009.

The Employment Permit Act of 2006 brought in a new statutory scheme for the issuing of employment permits to non-nationals, partly in response to a high migrant inflow. The new piece of legislation attempted to further restrict the access of low-skilled non-EU migrants to the Irish labour market and, at the same time, increase the number of highly skilled non-EU workers. In June 2009, additional restrictions were imposed whereby no new work permits were issued to jobs with a salary under €30,000. The publication of the Immigration, Residence and Protection Bill 2008 is the most recent development in migration policy legislation. The bill proposes a number of restrictions to migrants and further implications to citizenship (Mancini, 2008; Cosgrove et al., 2009).

Green card permit

Green cards are issued to most occupations and to applicants with an annual salary of 60,000 euros or more. The salary gap is widened to between 30,000 euros and 60,000 euros if the employee's occupation belongs to a list of strategic skill shortages compiled by the Expert Group for Future Skills and Needs.¹⁸⁷ Green card holders are not required to undertake a labour market test; the duration of the job offer must be at least two years and will be renewed indefinitely thereafter, when usually long-term residence or permanent residence status will be granted. Green card holders are also allowed immediate family reunification.

Work permit

Work permit holders are subject to a labour market needs test and fall under the category of an annual salary between 30,000 euros and 60,000 euros, and only under exceptional circumstances will work permit holders be entitled to a work permit with an annual salary below 30,000 euros. Vacancies must be advertised with FÁS (Training and Employment Authority) and in the local and national newspapers for three days, with the EU/EEA worker preference being applied.

The work permit is issued to the employee and allows taking a job only with the particular employer¹⁸⁸ and in the specified occupation. This is nevertheless regarded as an improvement on the previous system whereby the permit was issued to the employer.

Work permit holders will be required to have lived in Ireland for at least one year with an income above the threshold before family reunification is considered. Also, they will have to wait for five years before they are eligible to apply for permanent residency.

¹⁸⁷ The Expert Group for Future Skills and Needs was established in 1997 and reports to the Minister for Enterprise, Trade and Employment and to the Minister for Education and Science. It has at its core to advise the Irish Government on current and future skills needs of the economy and the labour market, and to ensure that labour market needs for skilled workers are anticipated and met. Forfás and FÁS provide the Expert Group for Future Skills and Needs with research and administrative support. For further information see <http://www.skillsireland.ie/aboutus/>

¹⁸⁸ Permits will not be granted to companies that are not trading in Ireland and that are not registered with the Companies Registration Office and the Revenue Commissioners.

Spouses and dependants of employment permit holders

In the case of spouses or dependants of work permit or green card holders, the salary restriction does not apply. They are entitled to immediately apply for a work permit in any sector and there is no labour market needs test or application fee required to obtain such a permit. However, the duration of the employment permit issued to the spouse or dependant is directly linked to the duration of the permit of the original applicant. In the case of marriage breakdown or a situation of domestic violence, the non-EU spouse can apply to INIS for independent status. Applications will then be assessed on a case-by-case basis.

Intra-company transfer

For intra-company transfer no labour market needs test is required, however the annual salary must be higher than 40,000 euros. The transferee must have worked for the parent company for over 12 months prior to their application to the scheme, and the total number of transfers within the company should not exceed 5 per cent of its total workforce. There is an exception to the latter point in the case of small companies or companies that are starting up their business in Ireland. The permit is valid for two years with the possibility of a three-year extension. The transferee will not build up rights to permanent residency.

Non-EEA graduates from the Irish third-level education colleges

This scheme applies only to non-EU third-level graduates who have obtained their primary, masters or doctoral degree in Ireland, and who wish to remain in the country. In this case, they will be granted participation in the scheme for a period of six months after receipt of their final examinations, which will allow them to look for a job.

Institutional and Policy Framework for Integration

Until 2007 the only official integration policy dealt with the recognition of refugees and there was a general perception that migrant workers would eventually return home. The absence of a coherent national integration policy meant in practice a *laissez-faire* integration strategy that largely devolved integration processes to individuals, families, local communities, relevant public bodies, NGOs, and employers.

In 2007, the Office of the Minister for Integration (OMI) was created with the responsibility for the development of integration and put forward *Migration Nation* (2008), a flagship statement on integration strategy and diversity management. Yet, specific integration policy measures arising from this policy statement have been limited and further developments seem unlikely in the current climate of budget cuts across all government departments. Since the start of the economic downturn, the National Consultative Committee on Racism and Interculturalism and, Integrate Ireland Language and Training have been closed down, the Combat Poverty Agency

has returned to state control and, the Equality Authority has faced severe funding cuts. However, in June 2010 the Minister of State announced the establishment of a Ministerial Council on Integration which will advise on issues faced by migrants.

Although fractured and fragmented, there is some policy action on integration at the national and local level with NGOs and, voluntary and community organizations providing information to migrants and advocating for migrant's rights.

Given the rise in unemployment and the expected increase in labour market competition, resources and support systems for migrants should be made available in relation to the provision of English language classes and the speedier recognition of qualifications (NCP 2009). Unfortunately, in 2008 the lack of public funding led to the closing of Integrate Ireland Language and Training¹⁸⁹ which played an important role in providing support services to non-English speaking pupils in schools around the country as well as in training adults.

Active Labour Market Measures

There is a significant information and data deficit in relation to available labour market integration programmes and in particular to programmes that specifically address the needs of migrant workers. Forfás has recently conducted a review on the performance of some of these programmes (2010). Unfortunately, training programmes for the unemployed,¹⁹⁰ employment programmes and, apprenticeship and training are only designed for the mainstream working population.¹⁹¹

Although all courses are available to anyone legally residing in the state, they do not take into account the specific needs of migrants. In particular, these programmes do not address language barriers, difficulties in recognition of qualifications, lack of clear and accurate information about cultural norms, the informal mechanisms of job seeking, and the employment permit system (NCP, 2009).

Discrimination in Employment

The National Consultative Committee on Racism and Interculturalism (NCCRI) was established in 1997 but was closed at the end of 2008 as a result of government cutbacks. Its major contribution has been, perhaps, the formulation of a National Action Plan against Racism (NPAR) with the aim to provide a framework to combat racism and to develop a more inclusive society. Equality legislation¹⁹² prohibits direct and/or indirect

¹⁸⁹ Prior to its closure in 2008, Integrate Ireland Language and Training (IILT) was funded by the Department of Education and Science.

¹⁹⁰ Training programmes for the unemployed include the Local Training Initiative, Community Training Centres and Bridging Training Programme, as well as Specific Skills Training and the Traineeship programme which is considered the most effective measure for the unemployed due to being the closest to the labour market and requiring employer involvement.

¹⁹¹ Furthermore, the fact that some of these initiatives are run by local community groups and independent community-based organisations funded at private and state level, could pose difficulties when securing future funding.

¹⁹² See The Employment Equality Act 2004 and The Equal Status Act 2004

discrimination and stipulates prosecution on the following grounds: gender, marital, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community.

Levels of racism in Ireland tend to be lower than in other European countries. However, high levels of discrimination against African migrants have been reported, as 54 per cent Sub-Saharan African migrants stated they have been discriminated¹⁹³ against, 29 per cent indicated they had been a victim of racist crime and, 34 per cent responded they employ avoidance behaviour for fear of being a victim of racism (EU-MIDIS, 2009). This is corroborated by national studies which highlight that migrants are frequently at risk of discrimination and racism and, this is particularly relevant in the experience of Black South/Central African migrants (McGinnity et al., 2006). O'Connell and McGinnity found that non-Irish nationals are three times more likely to report having experienced discrimination while looking for work than the Irish nationals (2008).

In the workplace, non-Irish nationals are twice as likely to report experiences of discrimination compared to the Irish nationals. O'Connell and McGinnity also found that members of Asian communities are less likely to secure top positions (2008).

A significantly lower proportion of non-Irish nationals, especially those working in restaurants, hotels and domestic services are in receipt of work benefits¹⁹⁴ when compared to Irish nationals (29% compared to 57%) (CSO, 2010). Non-Irish were also less likely to have working arrangements¹⁹⁵ available to them (40% compared to 76% for the Irish nationals) and this was particularly significant for migrants from the EU10 Member States (CSO, 2010).

The vast majority of migrants came to Ireland to work and therefore access to redress, information on employment rights and statutory complaint bodies are at the basis of a successful integration process. In the past few decades a number of pieces of legislation have been introduced in relation to terms of employment, unfair dismissal, employment equality, minimum wage and Joint Labour Committee (JLC) rates, working time, and the payment of wages.

A number of bodies have been created to deal with employee's complaints. These include the Employment Appeals Tribunal (EAT), The Labour Relations Commission (LRC), The Labour Court, and The Equality Tribunal. Although these quasi-judiciary bodies play a major role in providing both national and migrant employees with accessible channels to exercise their rights and entitlements, all of them deal with different complaints under different pieces of legislation and it is not uncommon for a claimant to have different cases running at the same time in these various statutory bodies at times resulting in multiple hearings. Although the claimant does not require legal representation, research shows that having a solicitor or a trade

¹⁹³ Respondents indicated that they had been discriminated against at least once in the previous 12 months when: looking for a job; at work; looking for a house or an apartment to buy or rent; accessing healthcare; accessing social service; accessing school; at a cafe, restaurant or bar; entering or in a shop; trying to open a bank account or get a loan.

¹⁹⁴ The benefits here refer to pension/ pension contribution, childcare subsidy, medical plan/insurance cover/ company doctor.

¹⁹⁵ The working arrangements were paid sick leave, career breaks, flexible work arrangements, and paid leave to attend job-related course/training.

union¹⁹⁶ representing them increases their chances of a positive outcome (MRCI, 2006a).

Barriers to access to enforcement of employment legislation are most commonly associated with access to representation as migrant workers are often unfamiliar with advice and information centres (MRCI, 2006a). Situations are aggravated in the case of non-EU nationals who depend on their employer in order to obtain a work permit¹⁹⁷, and who in many cases also provide accommodation and food. This could lead to migrant workers remaining in exploitative situations for fear of becoming undocumented or losing their jobs.

‘The Habitual Residence Condition’ is a test that excludes non-EEA nationals from all forms of social protection including emergency accommodation and payments unless they have been legally resident in Ireland for at least two years and can demonstrate they intend to remain in Ireland in the long term (MRCI, 2006a). The lack of provisions for all migrant workers is a significant barrier to bringing these cases to the relevant authorities.

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¹⁹⁶ 10 per cent of SIPTU membership is constituted by migrants, in their vast majority are Polish workers and working in the construction sector. Most cases reported to SIPTU by migrants concerned minimum wage disputes, workers not being paid for their holidays and overtime (personal communication with a SIPTU representative). Although there are no constitutional and institutional impediments to membership for migrant workers, the number of migrants availing of their right to trade union membership has been low up until this point in time.

¹⁹⁷ See section 1.2 ‘Legal Framework: Legislative Instruments and Provisions’ in this report

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ITALY

Ugo Melchionda¹⁹⁸



Institutional and Legal Framework for Admission and Employment

The Italian migration policy is based on the principle of “managed and orderly entry”, which takes into account Italy’s capacity to receive migrants and the need to guarantee a gradual integration process.

Every three years the Italian Government adopts a “Document of Migration Policy Planning” establishing the general principles for the identification of migration inflows to be allowed through annual decrees. These decrees, adopted by the Government, set the quota of migrant workers who can legally enter Italy both for paid and self-employment activities, either on a permanent or a seasonal basis. The maximum annual quota comprises also the so-called preferential quotas, namely quotas reserved for nationals of countries that have signed (or are about to sign) agreements in the field of cooperation in management of regular immigration.

The Quota decree of 2007 was the last decree which foresaw general quotas for all sectors and all citizens. Although this decree increased the quota from 80,000 to 170,000 workers, the number of applications was more than four times higher than the available quotas. Therefore, in 2008 the Government issued a quota decree reserved to applicants of 2007 exceeding the forecast quota of the previous year. However, since most of the applications were made on behalf of the irregular workers already in Italy, some observers envisage the start of a zero entry policy, confirmed in 2009, when the only quota issued was reserved to seasonal workers.

Special procedures and terms are established in the following cases, which allow entering Italy outside the quota system:

¹⁹⁸ Ugo Melchionda is a researcher at IOM Rome.

- university lecturers, professors or researchers;
- workers employed with circuses or shows;
- artistic or technical personnel for opera, theatre, concert, cinematographic enterprises, radio or television broadcasters;
- professional sportsmen;
- news correspondents officially accredited in Italy;
- professional nurses, upon the provision of a job contract.

Initiating the recruitment procedure of salaried workers (either seasonal, fixed-term or undetermined contracts) falls under the employer's responsibility,¹⁹⁹ who needs to request a nominative authorization from the provincial Immigration Desk. Within ten days from the communication and not exceeding 20 days, the Immigration Desk will issue an authorization.

Authorization for seasonal employment should be obtained before the worker leaves the country of origin and may be valid from a minimum period of twenty days to a maximum of nine months. Seasonal workers who have returned to their countries of origin upon expiration of their permits acquire priority over their nationals with regard to the possibility of re-entry the following year.

Third-country nationals who wish to carry out non-occasional self-employed activity need to meet a number of conditions, including:

- demonstrate that they have adequate resources for the performance of the activities;
- prove that they meet the prerequisites established under the Italian law for the performance of the activity in question, including, when required, the requirement for entry into professional registers;
- demonstrate that they possess adequate certification from the relevant authorities, dated no more than three months earlier, declaring that there are no motives obstructing the issuance of the authorizations contemplated for such activities.

Third-country nationals have to demonstrate that they possess proper accommodation and an annual income generated by legitimate sources and the amount must be higher than the minimum contemplated by law that allows for exemption from health care contributions. All self-employers (Italian or not) must be registered in the Chamber of Commerce.

Once the worker has been allowed to enter Italy, he/she has to get a residence permit for employment, which is issued on the basis of a signature of the working residence contract. The length of the residence permit corresponds to the length established by the working residence contract, within the limit of one year for fixed-term working contracts and two years in case of undetermined contracts.

¹⁹⁹ In case of seasonal workers it can be initiated also by the entrepreneurial associations on behalf of their members.

Family residence permits, study residence permits as well as asylum permits can be used to work, even without changing the title into a work residence permit.

Interruption of the working relations does not imply the revocation of a residence permit, neither for the worker nor for his/her relatives. The worker may register in the unemployment lists for the period of residual validity of his /her permit, but at the end of this period, if still unemployed, will not be allowed to renew his/her residence permit. He/she will receive a special permit for the purpose of job seeking for six months that is not renewable.

Non-EU workers are still entitled – within the limits of the residence permit validity – to unemployment allowances, a social security measure, which substitutes the salary in case of involuntary unemployment. In order to benefit from such measures the worker must be registered with the State Employment Agencies, possess two years of social security and 52 weeks of contribution in the previous two years.

Institutional and Policy Framework for Integration

In the last years, modifications to the Italian legislation in the area of migration were primarily focused on irregular migration, while regular migration has been addressed mainly indirectly.

The first Programmatic Plan on Policies of Immigration and Aliens in the Territory of the State issued in 1998 stated that “integration is a process of non-discrimination and inclusion of differences, therefore a process of contamination and experimentation of new forms of relationships and behaviours, carried out in a constant and daily effort to hold together universal principles and differences”.

Ten years later, the recent security law²⁰⁰ proposed a different perspective by defining integration as “the process which promotes coexistence of Italian citizens and foreigners, while respecting the values enshrined in the Italian Constitution, with the mutual commitment to participate in the economic, social and cultural life of the society”.

With regard to regular migrants, the first important recent change was the reduction of the period required to apply for the EU long-term residence permit from six to five years. This rule foresees the payment of a specific fee for the review of the residence permit (increased from 80 to 200 euros).²⁰¹ However, the main novelty with regard to integration policies is the introduction of an integration agreement “articulated for credits”. Migrants will be committed “to subscribe to specific objectives of integration, to be achieved during the period of validity of the residence permit”. In this way foreign citizens will earn points upon achieving the aims subscribed in the agreement, but, if unable to do so, they will lose points and eventually – in case of zero points – their residence permit will be withdrawn.

According to a recent survey on social services by the Italian National Institute of Statistics, only two per cent of the total expenditure for social services provided by

²⁰⁰ Law 94/2009.

²⁰¹ The overall amount will increase the return fund.

municipalities alone or in conjunction with other public bodies is spent on migrants. In 2004 over 38 per cent of expenditures were spent on social services and interventions, over 35 per cent on facilities and the remaining 27 per cent were paid in the form of monetary transfers (ISTAT, 2007). These figures suggest that the low municipal spending on services for migrants is mainly used to improve situations of serious social exclusion, economic marginalization, or to provide initial temporary accommodation for migrants.

Employment Active Labour Market Measures

Information on unemployed or jobseekers registered with the public employment service is often not available, which presents difficulties in evaluation of labour market insertion policies. Recent data from ISTAT (2009d) describes the importance of informal networks among migrants in access the labour market, as more than 70 per cent of foreigners rely on relatives or friends to find a job, while only 4 per cent use employment services, which requires a regular status. Informal networks, however, do not provide an alternative to ethnic specialization: migrants find a job quickly in the areas where the concentration of the group of co-nationals is high, but are unable to find alternatives.

Both public and private schools organize evening courses for adults. The Ministry of Education organizes literacy courses free of charge, to get the primary-school certificate. Moreover, a number of municipalities and associations organize Italian courses. Aliens who wish to get a school-leaving certificate can enrol in the ordinary secondary school courses.

Discrimination in Employment

The Italian law prohibits any discrimination and provides for equal opportunities for regular migrants and Italian citizens; nevertheless, during the period December 2007 – December 2008, 511 events were reported to the National Office against Racial Discrimination (UNAR)²⁰² and at least 339 can be attributed to racial discrimination (Caritas, 2009).

Work continues to be the most common ground for racial discrimination: in 2008, 22.1 per cent of reported events occurred in this area (23.8% in 2007 and 31.7% in 2006 showing a constant decrease). On the contrary, in public life the trend registers an increase: 5.3 per cent in 2005, 6 per cent in 2006, 12.8 per cent in 2007 and 13.6 per cent in 2008. The same trend is observed in the area of provision of services from the public bodies, from 9.9 per cent in 2006 to 13 per cent in 2008. The profile of these discriminated migrants is characterized by many years of residence, stability in housing and employment and good relational capabilities which empower them to file a complaint.

Besides the cases reported to UNAR, recent events create legitimate worries with regard to the social cohesion and migrant inclusion.²⁰³

²⁰² UNAR has been created in 2003 through Law, n. 215/2003, acknowledging the directive n. 2000/43 EC.

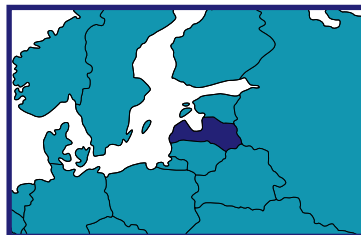
²⁰³ Such as the case of recent riots in Rosarno (Calabria)

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LATVIA

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Migration is a very sensitive topic for most Latvians due to the experience with the Soviet internal migration policy.²⁰⁵ Until now the strongly negative public opinion has made it impossible for policy makers to develop a long-term migration policy. A public opinion poll from 2008 also shows that 61 per cent of respondents do not support budgetary spending on integration policies.²⁰⁶

Institutional and Policy Framework for Admission and Employment

The main agency for development and implementation of migration and asylum policies is the Office of Citizenship and Migration Affairs under the Ministry of the Interior.

A non-EU/EEA migrant who wishes to reside in Latvia for more than 90 days within half a year should have a residence permit. There are three types of permits: a temporary residence permit, a permanent resident permit or a permanent resident status of the European Community (EC). A migrant might still need a residence permit if he/she plans to be employed in Latvia during a stay that is shorter than 90 days.

Upon initial entry, only a temporary residence permit can be issued. Validity of the temporary residence permit depends on the purpose of stay:

- Not exceeding one year for self-employed migrants;

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²⁰⁵ In 1989 just 52 per cent of population were ethnic Latvians, while before 1940 Latvians accounted for more than 77 per cent of the population. Source: Vēbers, E. (Red.) (1994). *Etnosituācija Latvijā: fakti un komentāri* [The ethnic situation in Latvia: facts and comments]. Rīga: Latvijas Zinātņu akadēmijas Filozofijas un socioloģijas institūts.

²⁰⁶ “The effect of migration on ethnic relations in Latvia”, Sociālās Alternatīvas Institūts, 2008.

- Not exceeding five years for migrants arriving on the basis of a labour contract or a commercial agreement, or on the basis of another civil liability agreement. In case of a labour contract, the right to residence in Latvia is terminated as soon as the labour agreement expires.
- Not exceeding five years for a temporary residence permit for the purpose of cooperation in science.
- Temporary residence permits for the purpose of family reunification, for the same period of time as the validity of the permit of the sponsor. If a migrant has arrived in Latvia on the basis of an employment invitation and is willing to invite the members of the family to Latvia, they also need a supporting invitation from the employer.
- The temporary residence permit for the purpose of studies at an accredited educational establishment is issued for the period of the studies, but not exceeding one year.²⁰⁷

A work permit to a migrant can be issued on the basis of a visa, a residence permit or an identification document of the asylum seeker.

Migrants, who have obtained a permanent residence permit or an EU permanent resident status in Latvia, are able to access the national labour market without any restrictions.

Access to the national labour market is restricted for migrants with a temporary residence permit, as they are tied to one employer and a certain position within the company. In case of unemployment, migrant's residence and work permits are cancelled, and the migrant has to leave the country. If a migrant changes their employer in Latvia, a new work permit must be obtained, and the whole application procedure is repeated.

If a migrant is employed in more than one company or holds multiple positions at the same company, a separate work permit is necessary for each of these activities. Such requirement was introduced after authorities discovered multiple cases when migrants received temporary residence permits as board members at various businesses while in reality working as construction workers. Employers used such an arrangement in order to avoid the lengthy procedure for attracting foreign labour.

A migrant can work on an employment (*darba*) or a company (*uzņēmuma*) contract, the latter being the case if a foreign company is "lending" the employee to a Latvian company. To be able to work on an employment contract, a migrant can receive a work invitation and a work permit only after the advertised position had been vacant for one month, and if no qualified Latvian citizen, non-citizen, or EU citizen has applied. Since 2006, over 80 per cent of work invitations have been granted based on work contracts following the vacancy test (SEA).

The law also stipulates that migrant workers must receive at least the average national gross monthly salary, which is higher than the minimum wage applicable to native

²⁰⁷ 31.10.2002., Law on Immigration.

workers (Table I).²⁰⁸ Hence, many employers choose to employ migrant workers on work visas, for example, in cargo transportation, that allow the migrant to reside in the EU no longer than 180 days in a year.²⁰⁹

Table I: Minimum monthly wage requirement for migrant and native workers, in LVL, 2006-2009.

	Migrants	Natives
2006	246	90
2007	302	120
2008	398	160
2009	480	180

Source: Central Statistical Bureau; State Revenue Service.

In accordance with amendments to the Immigration Law (in force as of 1 July 2010) temporary residence and work permits will be granted to persons who have invested no less than LVL 25,000 (EUR 35,570) in Latvia, created at least five new full-time workplaces that are occupied with at least half of the workers being Latvian nationals, non-citizens of Latvia, citizens of other EU/EEA countries, and have paid no less than LVL 10,000 (EUR 14,228) in taxes in one year.

Self-employed migrants may receive a temporary residence permit of up to one year based on a business plan that is verified by a qualified auditor, together with proof of sufficient financial means for the designated period of time, and other criteria. This procedure needs to be repeated the following year for the extension of the permit. If a migrant wishes to temporarily reside in Latvia as a businessperson, receiving a permit for up to five years, he/she needs to be registered in the Commercial Register.

Migrants arriving in Latvia to live with their spouse who is a citizen of Latvia, a non-citizen of Latvia²¹⁰ or a migrant with a permanent residence permit; and migrants arriving to pursue studies at an accredited educational establishment can obtain a work permit without the employer's invitation, and have a right to work for any employer. Non-EU students are allowed to work for not more than for 20 hours a week.

Highly qualified specialists, such as scientists, artists, sports coaches, educators can receive a work permit on the basis of a document proving their activities in Latvia, without the employer's invitation.

Asylum-seekers whose applications have not been lawfully processed within one year, can obtain a work permit without the approval of an employer's invitation at a branch of the State Employment Agency (SEA). Prior to 1 March 2010 not a single asylum seeker had applied for a work permit, as decisions on the granting or refusal of refugee or an alternative status are usually taken within one year from the submission of an application.

²⁰⁸ Cabinet of Ministers regulation No. 515 "Regulations regarding the Amount of Necessary Financial Means of Aliens and Procedures for the Determination of the Existence of Financial Means" adopted on 12 June 2005.

²⁰⁹ Ibidem.

²¹⁰ A special legal status given to permanent residents of Latvia who have neither become Latvian citizens, nor are citizens of another country. Most of them arrived in Latvia during the Soviet era and subsequently lost their Soviet Union citizenship in 1991 when Latvia regained independence.

Experts and employers tend to criticize the procedure and costs related to recruiting third-country nationals (Akule et al., 2009). The current residence permit procedure is complicated, as two state institutions (OCMA and SEA) are involved in the procedure and the documents must be submitted to each of them separately. Prior to July 2008, the procedure also involved substantial costs to the employer, especially in comparison to Estonia and Lithuania, which provided further incentives for irregular employment of migrants in Latvia.²¹¹

Institutional and Policy Framework for Integration

Until 2007 there was no systematic attention to the issue of migrant integration. The driving force behind the current integration activities seems to be the available funding (European Fund for the Integration of Third Country Nationals (EIF) in particular), pressure from the civil society and the EU agenda. To date, there is no policy document on migrant integration policy in Latvia.²¹²

Accessibility of the Latvian labour market is related to knowledge of the Latvian language as for some occupations certain language skills are required by law. The state can set the requirements for the necessary state language proficiency in the regulated professions.²¹³ In practice these regulations are waived in private business and workers with various qualifications are employed without knowing Latvian, if no motivation arises from business needs (Akule et al., 2009).

Up to mid-2009 there were no governmentally sponsored Latvian language classes, study materials, or other tools for language learning for migrants available (Kesane, Kasa, 2008). However, in order to develop a language acquisition program for migrants, the Latvian Language Agency has surveyed labour migrants about their language use, views on the necessity to learn the Latvian language, and intentions regarding their stay in the country.²¹⁴

As of mid-2009 Latvia has started to implement EIF-funded activities. Several initiatives have been started by the state institutions and NGOs to provide free Latvian language courses for some migrants. Unfortunately these initiatives are project-based and are limited in time and scope.²¹⁵

In 2009 the National Integration Centre for Immigrants was opened to provide third-country nationals with information on public and private services. The centre provided

²¹¹ Government' fee for issuing 1 work permit for the period of 1 year per guest worker was 533 LVL (760 EUR), which was almost 6 times higher than in neighboring Lithuania and almost 8 times that of Estonia. Source: Ministry of the Interior (29.04.2008). *Informatīvais ziņojums par ekonomisko migrāciju Baltijas valstīs* [A report on economic migration in Baltic countries].

²¹² The Government declaration of 2006 included a goal for the Secretariat of the Special Portfolio Minister for Social Integration to adopt a policy document on migrant integration before 31 December 2009; this was not done by March 2010 partly due to reorganization of the Secretariat. The Ministry of Justice plans to adopt a policy document on migrant integration during the course of 2010.

²¹³ <http://www.patverums-dm.lv>

²¹⁴ Interviews in Riga with 20 labour migrants from Ukraine, Lithuania, India, Rumania, Belarus, Uzbekistan, Moldova. Source: „Migrācijas ietekme uz valodas vidi Latvijā”, Latvian Language Agency, Zinātne, 2009

²¹⁵ There are no specific data available on the numbers and profiles of migrants participating in Latvian language courses as reports have not yet been summarised and analysed.

free-of-charge legal and social workers' consultations, Latvian language classes, re-qualification and qualification improvement courses. These services were available to legally residing third-country nationals with temporary residence permits that are otherwise excluded from receiving these services from SEA. However, the Centre was operational only in November-December 2009,²¹⁶ and assisted approximately 30 migrants. The future of this Centre depends on the available funding.

Active Labour Market Measures

Migrant workers with temporary residence permits are neither eligible for unemployment benefits, nor for support services pertaining to re-qualification and job-matching. Persons holding permanent residence permits or long-term EC resident status in Latvia can receive unemployment benefits and the mentioned services. SEA data shows that only a part of this category of migrants use these opportunities (Table 2). This can be explained by limited funding available for these services,²¹⁷ and limited interest by the unemployed in pursuing official channels.

Table 2: Number of permanent residents using services available to the unemployed,* 2005-2009

	2005	2006	2007	2008	2009
Paid temporary work	76	46	29	33	60
Traineeship with the employer	-	-	-	-	3
Training (improvement of qualification)	79	60	20	10	42
Acquiring working skills, with/without a subsidy	-	-	1	2	80
Measures to increase competitiveness	2,305	1,969	322	612	1,398
Informal education	305	303	84	81	184
Measures to help start business or self-employment	-	-	-	2	2
Measures for specific groups**	6	5	7	7	-
Complex support measures	-	-	-	-	41

Source: unpublished SEA data.

*Unemployment persons are entitled to use as many services entitled to them as possible, so one person can be enrolled in several programs or measures.

**Specific groups are long-term unemployed, persons having completed a prison sentence, persons returning to work after parental leave, and persons with special needs.

²¹⁶ The centre was opened and maintained as an EIF project. As the 2009 annual program for the Fund is still not operational, funding for the Centre ended on December 2009.

²¹⁷ For example, since 2009 the most popular measure was acquiring working skills with a subsidy (LVL 100 or EUR 142 per month), but there are limited vacancies available, so unemployed persons must queue to wait for their turn. Source: Interview with Ilze Berzina, head of Department of Statistics, State Employment Agency, March 2010.

Discrimination in Employment

Latvian legislation provides a general anti-discrimination framework, including protection from discrimination based on race, ethnic or social origin and other circumstances. However, direct and indirect discrimination persists in the society and, in some cases even in the legislation.

Until March 2010 children of migrants with temporary residence permits were not entitled to free compulsory education,²¹⁸ and migrant workers with temporary residence permits are not entitled to any public social services (state-guaranteed healthcare, social aid, and unemployment benefits) or to state-guaranteed legal aid.

Interviewed migrants and employers in Latvia did not find the current forms of recruitment discriminatory towards migrants (Akule, Lulle, 2009). Research shows that labour market discrimination predominantly occurs in the workplace in the absence of a written work contract and irregular employment. According to the State Labour Inspectorate and SEA, the most common violations are failure to pay or delay paying the verbally agreed salary, requests to work longer hours, and violating workers' rights to paid sick leave and vacation (Akule et al., 2009).

The State Labour Inspectorate is the main state institution tasked with ensuring the protection of migrant labour rights. Inspections are carried out regularly to check employment conditions and work safety, but without a particular focus on tracing irregularities in companies employing foreigners. Until now state institutions have received only a few official complaints on violations of labour rights of migrants, for example, eight official complaints from migrant workers (Ukrainians, Moldovans, Poles, Estonians) in 2007. Some of these complaints were well founded, and employers were fined.

Several international reports indicate that, in comparison to other countries, Latvia has one of the most hostile public attitudes in the EU against migrants. Only a few official complaints have been filed on discrimination on the basis of race, language, religion, and ethnicity, which demonstrates the lack of awareness on the part of migrants on their rights and pathways to seeking protection with the state authorities (Kesane, Kasa, 2008).

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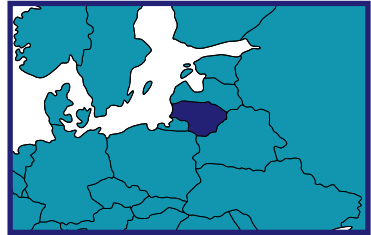
²¹⁸ According to amendments in Education Law – in force as of 26 March 2010 - migrants with valid residence permits and other legally residing foreigners have the right to free primary and secondary education (high school level). The amendments also include a discrimination ban, stressing that all people have the right to education. See <http://www.likumi.lv/doc.php?id=206963>

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LITHUANIA

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Institutional and Policy Framework for Admission and Employment

The main acts regulating immigration of third-country nationals to the Republic of Lithuania are the *Law on the Legal Status of Aliens* (adopted in 2004 with further amendments) and the *Lithuanian Immigration Policy Guidelines* (adopted in 2008).

Lithuanian immigration policy guidelines envisage rather conservative and restrictive policies set by the following principles:

- *Compensation* of labour shortages. Priority should be given to Lithuanian and EU nationals and labour immigration should be regarded as the secondary/complementary measure; employees from third countries should be allowed to enter the Lithuanian labour market only insofar as the shortage cannot be compensated by the local labour force. The State should seek to increase the labour participation rate of nationals and encourage the return of emigrant Lithuanian nationals.
- *Selectiveness and flexibility*. Geographical priority should be given to workers from Belarus, Ukraine, Moldova and the South Caucasus.
- *Accommodation*. Lithuania should prioritize circular migration in order to be able to accommodate potentially returning Lithuanian emigrants.
- *Integration*. The integration of third-country nationals with permanent resident status.

A third-country national who wishes to reside legally in Lithuania should:

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- Obtain a permit for temporary or permanent residence in Lithuania by submitting the first application for a temporary residence permit to the Lithuanian diplomatic mission or consular office abroad. A foreigner who is lawfully present in Lithuania must submit documentation to the Migration Office of the Public Police at the local police office.
- Declare a place of residence after receiving a temporary residence permit and coming to Lithuania.

There are two types of residence permits: temporary (issued for one year) and permanent (extended every five years) issued in Lithuania. Residence permits are issued according to the grounds for entry. A third-country national wishing to work in Lithuania is obligated to obtain a work permit prior to entering the country. A work permit may be issued to an alien if there is no specialist in Lithuania meeting the employer's qualification requirements. The institution responsible for issuing of work permits is the Lithuanian Labour Exchange under the Ministry of Social Security and Labour.

A work permit for the third-country national can be issued according to Lithuanian labour market needs, giving priority to the EU and Lithuanian citizens. An employer's application for the issuance of a work permit for a foreign national must be processed within one month. When applications for work permits are submitted, the migrant worker should then submit an application for a temporary residence permit that will be processed within six months. A work permit is issued for no longer than two years and specifies the company where the third-country national will be employed. Work and residence permits in Lithuania will automatically become void upon the termination of the employment contract by the employer.

Excessive labour emigration left some sectors of the Lithuanian economy stricken with a depleted pool of specialists. This was especially visible in the manufacturing, construction and service sectors. This forced employers to seek workers from other countries, mainly from Central and Eastern Europe, or from Asian countries, such as China. Since the end of 2006, the procedure of issuing work and residence permits for third-country nationals whose occupation is in short supply in Lithuania was simplified by the decree of the Minister of Social Security and Labour. In 2008, the employment procedures of highly skilled workers from third countries were relaxed, and the term for the issuance of a work permit shortened. Workers could come and work with a national Visa D without waiting for the issuance of a residence permit.

This clearly depicts Lithuanian immigration policy as oriented towards short-term labour immigration only when a specific labour shortage arises, without a long-term vision on labour migration, and especially on the integration of migrants.

Institutional and Policy Framework for Integration

Lithuanian legislation pertaining to integration considers all migrants coming to Lithuania under different grounds, including asylum seekers. The main measures for the integration of foreigners are applied particularly to those who have been granted refugee status or temporary protection. These measures are (I) Lithuanian

language courses; (2) education; (3) employment; (4) provision of accommodation; (5) social protection; (6) health care; and (7) public information about the processes of integration.

Currently in Lithuania there are no integration measures for newly arriving migrants, including foreign workers from the third countries, their families, or any other types of migrants. However, the aforementioned *Strategy of Regulation of Economic Migration* forecasts integration measures for newly arriving migrants, but at the moment there is no plan for implementing this strategy.

The Ministry of Social Security and Labour together with civil society is developing an infrastructure for the social integration of refugees. The system is applied to foreigners who have been granted refugee status or temporary protection in Lithuania. Social integration programmes have been developed with funding by the European Refugee Fund.

The European Fund for the Integration of Third-country Nationals (launched in 2007) could be considered a first step towards specific integration measures for third-country nationals, including migrant workers and their families coming for educational purposes or to develop their skills. However, the fund has annual programmes with changing priorities and hence funded activities, so most of the projects are short-term and have limited potential to have a lasting impact on the integration of migrants.

Given the composition of migrants in Lithuania, language has not emerged as an important issue or an obstacle for successful integration. The majority of newly arriving immigrants (including migrant workers) are from Belarus and Ukraine, and have knowledge of Russian. The majority of refugees hold Russian citizenship and also speak Russian. Since many Lithuanians have a basic knowledge of Russian, integration through the acquisition of Lithuanian language ability has not been central to practical interactions and transactions. Moreover, migrant workers from third countries are concentrated in Klaipėda and Vilnius where Russian is more prevalent than in other regions of the country. Migrant workers are employed in sectors and occupy jobs where the national language is not central to their work. However, new trends in increasing numbers of migrant workers from China, Turkey or Moldova show that the provision of Lithuanian language classes may become an important tool for integration.

Discrimination in Employment

Most equal treatment measures apply to migrants in the same way as they apply to citizens. The provisions of the Penal Code and the Code of Administrative Offences mainly apply to maintaining societal cohesion and defending migrants or minorities against discrimination and other offences. However, it is the Law on Equal Treatment that became a basis for the reception of complaints submitted by foreigners during the last few years. The main factor that makes this legal act effective is its complaint mechanism through the Office of the Equal Opportunities Ombudsperson. A web-site of this Office (<http://www.lygybe.lt/>) contains some information in English that may be helpful for foreigners seeking legal support.

In practice there were several complaints to the Office of the Ombudsperson on discrimination on the basis of ethnicity at work, mostly from the Roma minority in Lithuania. The Ombudsperson also received complaints from foreigners regarding discrimination in the public sector when seeking goods and services, for example when a person was treated disrespectfully in the shop because of their skin colour.

Most Lithuanian human rights organizations do not have essential capacities for legal counselling and legal representation. Similarly, trade unions do not focus on migrant worker issues. Asylum seekers and refugees receive legal assistance through a well-developed infrastructure of the state and non-governmental agencies while migrant workers often have no opportunities for support.

A public opinion poll, commissioned by IOM and carried out by VILMORUS in mid-January 2010 clearly depicts public opinion as negative towards migrant workers. Fifty-eight per cent of respondents thought that migration to Lithuania is a negative phenomenon, 23.4 per cent had no opinion on the issue and just 18.8 per cent thought that immigration was a positive phenomenon. As many as 67.9 per cent of the respondents had never personally met migrant workers in Lithuania.

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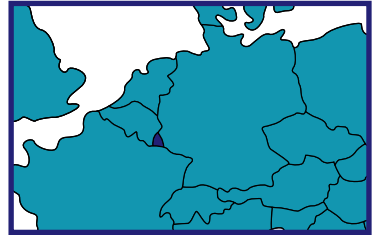
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LUXEMBOURG

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Institutional and Policy Framework for Admission and Employment

Luxembourg, as other EU Member States, implemented measures to allow for the intra-EU mobility of labour. However, some restrictions on the access to the labour market remain also for the EU citizens:

- In 2004, a transition period was applied to eight out of ten new Member States,²²¹ as in 2007 to Romania and Bulgaria (currently under transition arrangements);
- Luxembourgish citizenship used to be a precondition for becoming a civil servant. Following a decision of the European Court of Justice,²²² Luxembourg²²³ opened six sectors (research, education, health, transports, communications and water, electricity, and fuel distribution) with exception of positions with “direct or indirect exercise of public power”. After this, the act of 18 December 2009 modifies access conditions for EU citizens, opening up for national (art.1) and municipal (art. 3) public service for civil servants and employees (art. 2). There will be an exception for positions with a “direct or indirect impact on sovereignty”. Recently, the grand-ducal decree of 12 May 2010 defined eleven profiles reserved to nationals.²²⁴ Thus, approximately 70 per cent of the public sector will be opened to EU nationals.

²²⁰ Claudia Hartmann-Hirsch and Senyo Fofo Amétépé are researchers at the Centre of Studies of Populations, Poverty and Socio-Economic Policies (CESP/INSTEAD). The report was prepared in collaboration with Rainer Ohliger, Network Migration Europe.

²²¹ Malta and Cyprus were not included.

²²² CJEU of 2.07.1996.

²²³ Act of 17 May 1999.

²²⁴ Employment linked to the secretariat, at <http://www.legilux.public.lu>

Until 2008,²²⁵ requests concerning work permits had to be introduced by employers who were obligated to declare the vacancy to the “Administration de l’Emploi” (ADEM; employment agency). ADEM then checked whether there was an active EU national who would be suitable for the job. From 1994 onwards, the employer furthermore had to deposit a bank guarantee of at least 1,500 euros for each third-country worker in order to cover costs of returns should they arise.²²⁶ Since several years, a selective immigration policy had been implemented without changing the legal text: third-country nationals earning wages of more than four times the minimum wage are awarded easier access conditions/work permits (OECD, 2003: 110).

In 2008, a general reform on immigration and integration policy was launched, with a new Immigration Act,²²⁷ Integration Act²²⁸ and the Act on Dual Nationality.²²⁹ The Immigration act now foresees a unique procedure for residence and work permits with different labour market access conditions for various categories of migrants. The parameter used for facilitated access up to 2008 was a wage criterion (more than four times the minimum wage), with the recent legislation, easier access is either conditioned by high wages or by high qualification. Third-country nationals have to face stricter controls in favour of priority for European workers; they have a shorter first work permit and family reunion under certain conditions, at the earliest after 12 months of stay. The following table presents the different categories with their specific conditions (Table 1).

Institutional and Policy Framework for Integration

Current integration policy is based on the new framework adopted in 2008, mainly structured on two axes:

- The new integration law created the Office Luxembourgeois de l’Accueil et de l’Integration (OLAI)²³⁰ responsible for integration policy, namely the multiannual national integration plan. According to this new policy, integration should be considered a bilateral process that involves both migrants and the host society. Migrants should accept the basic principles and values of Luxembourg’s society, and nationals should respect the identity and culture of migrants. Non-compulsory integration contracts (“contrats d’accueil et d’intégration”) have also been introduced.²³¹
- The new law on nationality is considered to serve as means for integration, providing migrants with the right to vote, to stand in elections and full citizenship (thus expulsion is impossible). Though the conditions for citizenship have been increased (7 instead of 5 years of residence), however, dual nationality became possible. This led to a massive application wave during 2009, the first year of enactment.

²²⁵ According to the act of 28 March 1972.

²²⁶ Grand-ducal decree of 17 June 1994.

²²⁷ Act of 29 August 2008 and its grand-ducal decrees.

²²⁸ Act 16 December 2008.

²²⁹ Act 23 October 2008.

²³⁰ OLAI replaces the “Commissariat du Gouvernement aux étrangers” (CGE), a public body responsible for the welcoming and the integration of foreigners (migrants, cross border commuters, asylum applicants), for housing and social allowance for asylum applicants

²³¹ These measures are mainly language and public law classes. These classes are also a pre-condition for applications for Luxembourgish citizenship.

Table 1: The varying conditions for the different groups of active third-country nationals

Ordinary employee	Duration	Application	Conditions	Nuclear family reunion
Contract A	1 year maximum	Only one sector, one profession, but any employer	Economic interest for Luxembourg = at least the minimum wage for full time job Adequate qualifications Job contract for vacant job EU/EEA preference	After 12 months' stay
Contract B	2 years (renewable once)	Possible change in the sector if initial conditions fulfilled	Job contract for vacant job EU/EEA preference	Family reunion is allowed if: regular financial resources, appropriate housing, health insurance for himself and his family, similar labour market access conditions for the partner as for the principal immigrant
Contract C	3 years (unlimited, renewable)	Any profession in any sector		Family reunion is allowed if: regular financial resources, appropriate housing health insurance for himself and family similar labour market access conditions for the partner as for the principal immigrant
AOT (Temporary work permit)	For Romanian and Bulgarian nationals before free movement disposals are in force	Grand Ducal Decree of April 29, 1999	Applicant has to be from a third country and able to return to their country of origin (Council directive 2001/55/EC). This employment is subject to rules applicable to the profession.	
Secondment	According to the duration of the secondment (renewable)		Permanent contract with the core company Start of this contract = at least 6 months at the beginning of the secondment	
Highly qualified	At most 3 years (renewable once)		4 X minimum wage Possible change of sector or employer under certain conditions (income, professional experience, diploma)	Immediate family reunion. Similar labour market access conditions for the partner as for the principal immigrant

Table 1 cont.

Ordinary employee	Duration	Application	Conditions	Nuclear family reunion
Self-employed	At most 3 years (renewable once)		Under some conditions (enough income to carry out its activity, viability of the activity and its utility for Luxembourg economy)	Family reunion after 12 months' stay if: regular financial resources, appropriate housing, health insurance for himself and family similar labour market access conditions for the partner as for the principal immigrant
Researcher			Diploma giving access to PhD Convention from host research center No wage condition	Immediate family reunion. Similar labour market access conditions for the partner as for the principal immigrant
Athletes	1 year max (renewable if certain conditions fulfilled: medical attestation; appropriate housing and residence authorization for as athlete or trainer)		"Economic interest" = at least the minimum wage for full-time job Health insurance Job contract from sport association or from club joined	Similar labour market access conditions for the partner as for the principal immigrant
Students	1 year min (renewable if certain conditions fulfilled: medical attestation; appropriate housing and residence authorization for studies)		Attestation of admittance in high school or university Health insurance Financial resources of at least 80 percent of the minimum wage Appropriate housing	
Secondment	According to the duration of the secondment (renewable)		Permanent contract with the core company Start of this contract = at least 6 months at the beginning of the secondment	
Highly qualified	At most 3 years (renewable once)		4 X minimum wage Possible change of sector or employer under certain conditions (income, professional experience, diploma)	Immediate family reunion. Similar labour market access conditions for the partner as for the principal immigrant

Source: Own compilation.

Active Labour Market Measures

The National Action Plans nearly never target migrants as a specific group for targeted labour market measures. These Action Plans mainly focus on two main weaknesses of the labour market: low female participation and early exit patterns. Both phenomena concern nationals more than migrants in terms of respective labour market outcomes.

The recent law of 17 February 2009 on language learning introduces Luxembourgish classes for employed or liberal professionals, which can be taken during working hours with a maximum of 200 hours overall. For both categories of users, the state reimburses the cost of the missed working hours.

NGOs also offer different projects, which are mostly co-financed by the EU through instruments such as the European Integration Fund, and are mainly focused on improving language skills.

Discrimination in Employment

The debate on immigration and asylum is high on the public agenda whereas there is little public debate on racism and xenophobia. There is a common political understanding of the important dependence of Luxembourg on a foreign labour force that supports a general xenophile attitude towards migrants. However, ongoing reports by the Racism and Xenophobia European Network (RAXEN) observe right-wing expressions on the internet and the feeling of “Überfremdung“ (foreign infiltration or literally “overforeignisation”) (Hartmann-Hirsch and Trilling, 2009).

According to a survey on Private Sector Discrimination and Employment (Besch et al., 2005), the major grounds for discrimination was age, followed by ethnic origins and religion. However, data protection legislation prohibits the collection of information on ethnic origins, religion, health, preventing a deeper analysis of the issue.

Moreover, the Equality body has indicated in its first annual report (2009) 18 incidents of ethnic/racial discrimination out of a total of 124 incidents, and 8 of these 18 concerned the labour market.

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MALTA

Jean-Pierre Gauci²³²



Institutional and Policy Framework for Admission and Employment

Malta has adopted a restrictive policy with rather stringent conditions being applied for the issuance of employment licenses (work permits) to third-country migrant workers. The Ministry for Justice and Home Affairs is responsible for migration-related matters, and the issuance of employment licences and conducting of labour market tests are under the competency of the Employment and Training Corporation (ETC) under the Ministry for Education, Employment and the Family.

The employment license is issued upon application by and in the name of the prospective employers and upon the satisfaction of the labour market test by means of establishing the lack of Maltese or other EU Nationals²³³ capable and willing to take up the job.²³⁴ If a job-seeker was not deemed suitably qualified and/or experienced in the job, the ETC will not issue the licence. There are, however a number of exceptions to these criteria, and some of these apply to a large share of Malta's migrant population (Table I).

²³² Jean-Pierre Gauci is a Director of the People for Change Foundation. The report is based mainly on desk research and some qualitative interviews. Experiences collected by the People for Change Foundation for other purposes have also informed the drafting of this report.

²³³ While the EU Nationals still require a license, this is issued automatically and without delays. No labour market test is applied.

²³⁴ These vacancies are notified to all registered job seekers who might apply for the post. They are also displayed on the ETC's website (<http://www.etc.gov.mt/site/page.aspx?pageid=2008>) and on the EURES Malta website (<https://www.eures.com.mt/>).

Table 1: Main provisions on employment licences, by migration category.

Category	Subject	Duration
Non-EU workers		1 year
Asylum-seekers	Application and issuance to the employer	6 months
Rejected asylum-seekers		3 months
Refugees		
Temporary humanitarian protection	Application and issuance in the individual's own name	1 year
Subsidiary protection		

Source: Own elaboration based on the relevant legislation.

Refugees and people with temporary humanitarian²³⁵ or subsidiary protection²³⁶ are issued work permits in their own name, which are valid for up to one year and are renewable upon application. With regard to the latter group, the regulations make access to the labour market “subject to labour market consideration”.²³⁷ In practice, however, no labour market test is being applied.

Asylum-seekers and rejected asylum-seekers can receive work permits if these are applied for and issued to their employer. These permits are renewable issued for up to six months for asylum-seekers and for up to three months for rejected asylum-seekers. The labour market test is not being applied to these categories either.

Long-term residence status may be granted to the third-country nationals who have resided legally and continuously in Malta for five years immediately prior to the submission of the application. Such status ensures equal treatment with nationals in the labour market.

A number of categories of migrants are excluded from the possibility of being granted long-term residence status, such as foreigners who are in Malta to pursue studies or vocational training, or on the basis of some form of international protection (including refugees), and temporary migrants such as au pair or seasonal workers, or posted workers.

In practice, access to long-term residence is made difficult by restricting the number of possible renewals of working licences to three, which amounts to a maximum of four years, one year short of the five-year requirement. Afterwards, the process would need to start again, a new employment licence being issued, which complicates access to long-term residence. Moreover, excluding protected persons from the remit of the regulations implies that many people who would fulfil all other criteria are effectively denied the possibility of making their status permanent and ensuring that their integration efforts are not wasted.²³⁸

²³⁵ This form of protection does not emanate from the Law but is granted by means of a government policy. The policy document provides that beneficiaries thereof shall be entitled to the same rights as those enjoying subsidiary protection granted under the strength of the relevant legal provisions.

²³⁶ Definitions of these forms of protection are beyond the scope of the present research but may be found in Article 2 of the Refugee Act, Chapter 420 of the Laws of Malta

²³⁷ See in particular Article 14(b)(iii). This implies the requirement of undergoing the labour market test.

²³⁸ Proposals in this regard at a European Level found resistance from the Maltese government and were, in fact, shelved.

Family reunification is applicable if the sponsor is holding a residence permit valid for at least one year, and has reasonable prospects of obtaining the right to permanent residency. Hence, asylum-seekers and people under the temporary or subsidiary forms of protection are explicitly excluded²³⁹ from this provision. As a rule, a person must reside in Malta for at least two years before family reunification. Refugees must fulfil the same criteria as any other third country national to qualify. When family reunification is granted, the family members shall be entitled, in the same way as the sponsor, to inter alia access to education, employment and self-employed activities as well as vocational guidance, initial and further training and re-training.²⁴⁰ However, exemption from the labour market test does not apply to family members within the first 12 months of their arrival.²⁴¹ Children of migrant workers are entitled to free tuition in state schools.

Students with residence permits are given limited access to the labour market. Provided that they are in possession of an employment licence (which is to be issued only if the issuance thereof will not have adverse effect on the labour market), students are entitled to work for a maximum of ten hours a week.²⁴² This right, however, does not apply within the first year²⁴³ of residence and access to the labour market is therefore delayed.

In practice, migrant categories with the requirement of the employer's application are placed in a position where they are vulnerable to exploitation and irregular work, as employers find it easier and less bureaucratic to recruit people without the licences. Moreover, the fact that the employment licence in the case of asylum-seekers, rejected asylum-seekers and third-country nationals is linked directly to their employer and the particular job, severely restricts prospects of job mobility.

The concern for job security is especially felt among migrant workers. The employment licence is valid for one year and each year the labour market test needs to be repeated. In the case of a job loss, the employment licence and the residence permit are immediately terminated.

Institutional and Policy Framework for Integration

The institutional framework for integration in Malta remains weak and centres mainly on the Ministry for Justice and Home Affairs which is responsible for migration-related matters. The Employment and Training Corporation (ETC) under the Ministry for Education, Employment and the Family is responsible for labour market measures in general. The National Action Plan on Social Inclusion that provides for measures on the integration of third-country nationals is issued by the Ministry of Social Policy. The functions of the Agency for the Welfare of Asylum-Seekers include provision of information programmes to its clients in various spheres including employment and facilitating access to the relevant public entities, including the services of ETC.

²³⁹ Regulation 3(2)

²⁴⁰ Regulation 15

²⁴¹ Proviso to Regulation 15(b) quoted above.

²⁴² Limit set through Regulation 11.

²⁴³ First Proviso to Regulation 11.

Moreover, ETC has recently appointed a manager responsible for migration issues. Similar positions were also created within other bodies such as the Ministry of Health.

At the time of writing, Malta does not have an integration policy, neither do concrete plans for its adoption exist. However, there are several policy and quasi-policy instruments²⁴⁴ that refer to the integration of migrants into the Maltese labour market, but they are limited in scope and apply exclusively to beneficiaries of international protection.

The only formal policy document “Irregular Migration, Refugees and Integration”, acknowledges that allowing beneficiaries of protection access to the labour market is necessary in order to ensure integration and independent living. In order to achieve this, it proposes that those working with a valid work permit²⁴⁵ should have the same employment rights and obligations as Maltese nationals, and that the government and NGOs should collaborate in identifying suitable job opportunities.²⁴⁶

The Multi Annual Programme²⁴⁷ of the European Refugee Fund, on its part, recognizes the importance of integrating beneficiaries of protection into the labour market and acknowledges that many of the integration programmes organized within open centres have had this as their primary objective. Moreover, it supports the view that ‘vocational and language training is continuously required to facilitate access to the labour market’.²⁴⁸ It also acknowledges that the lack of child-minding facilities for women with children is proving to be a stumbling block for this vulnerable group.

At the same time, none of the operational objectives²⁴⁹ set out in the Programme deal directly with labour market integration. Some of the objectives, such as language training and facilitating informal integration have an impact on access to the labour market. However it is unfortunate that measures aimed directly at improving and promoting such access are not prioritised.

The National Action Plan on Social Protection and Social Inclusion²⁵⁰ for 2008-2010 identifies irregular migrants²⁵¹ as a target group at risk of exclusion and therefore proposes relevant measures, such as increasing the employability of refugees through the setting up of a refugee advisory service.²⁵² More effective use of detention periods²⁵³ by, inter alia, improving opportunities for vocational training and education (including English language courses) as well as the provision of information on rights

²⁴⁴ In this context, this term refers to instruments which are not formal policy documents but which can provide a clear indication of policy direction.

²⁴⁵ The wording of the policy excludes from this ‘equality’ of arms, issues of access to the labour market per se.

²⁴⁶ These are the elements of the policy document which remain valid and applicable as the rest of the provisions have become outdated due to changes in the ministerial portfolios.

²⁴⁷ Available at: http://www.mjha.gov.mt/eu/documents/erf_map.pdf

²⁴⁸ Page 14.

²⁴⁹ The MAP sets out 13 operational objectives.

²⁵⁰ Available at: http://www.msp.gov.mt/documents/msp/nap_inc_2008_2010.pdf

²⁵¹ This is a mistaken nomenclature considering that most of the provisions relate to beneficiaries of international protection.

²⁵² It is unclear whether the plan seeks to address only recognized refugees or whether this is simply a confusion of terminology.

²⁵³ Which can be of up to 18 months in the case of rejected asylum-seekers and 12 months in the case of asylum-seekers.

and obligations through the creation of an integration handbook to be distributed to migrants are also envisaged in the plan.²⁵⁴

Local councils in Malta have very limited legislative and administrative powers. The responsibilities assigned²⁵⁵ to the councils do not make any direct reference to migration and/or integration issues, or to the labour market. The legislation does however allow public bodies to assign tasks to the local councils, which could potentially apply to their engagement in integration activities.

The system is also supported by activities of a variety of NGOs and international organizations working in Malta.

Thus far, the Maltese trade unions have shied away from the issue of migration, and actions thereon have generally been underplayed and occasional. All migrant workers are entitled to join trade unions in Malta, but membership remains low. The Union Haddiema Maghqudin informed the author that in its record 'the number of migrants... is insignificant, so insignificant that it cannot be used as a solid basis for any serious study'.²⁵⁶ The General Workers Union refused to divulge the number of enrolled migrant workers.

Another persisting challenge in labour market integration is the recognition of foreign qualifications and accreditation of skills obtained outside of the EU. In terms of on-the-job skills, the ETC provides an assessment and certification service which is available for both Maltese and foreign nationals, and includes an examination by a trade board. The board may then issue a certificate of competence in that particular skill or trade. Moreover, the Malta Qualifications Recognition Information Centre is in the process of developing its own skills assessments and validation schemes. However, that many migrants and especially those in the asylum system are not aware of these possibilities. For instance, the trade-testing service of ETC is not publicised on their website.

Active Labour Market Measures

Measures aimed at achieving the employment goals set out in the National Reform Programme tend to focus on the employment of women and older workers. None of the measures addressed specifically the issue of migrant workers. Neither does Malta currently have an induction programme for migrants. The measures that have been put in place have largely addressed the needs of protected persons through the provision of language and skills training and other guidance. Having said this, some of the initiatives are, by their nature, broader and may be used to address the needs of migrant workers as well.

Language training (specifically English) is considered to be a pre-requisite to integration, and hence a number of NGOs and international organizations have developed initiatives in this regard. Moreover, at the time of writing, plans were under way by the Agency for

²⁵⁴ See National Strategy for Social Protection and Social Inclusion 2008-2010; page 22.

²⁵⁵ An exhaustive list of tasks is provided in Article 33 of the Act.

²⁵⁶ Informal e-mail exchange with Mr. Gejtu Vella, Secretary General.

the Welfare of Asylum-seekers to implement a long-term project on the provision of language training. However, these initiatives are relatively ad hoc, are not structured or coordinated in line with the national induction programme or integration curriculum. The number of hours is often insufficient to achieve a level of proficiency necessary to progress towards further training, education or suitable employment. Very often the courses fail to adequately address the needs and aspirations of the target group with respect to labour market access. Further efforts are necessary to link the language training to the labour market needs.

The project “Integration of Asylum Seekers into Maltese Society”²⁵⁷ sought to address the problems that migrants face in accessing and within the labour market. This three-year initiative with the total of 107 participants was managed by Agency Appogg²⁵⁸ within the Foundation for Social Welfare Services, and comprised of providing training to asylum-seekers, followed by an in-depth assistance and support in profiling and vocational guidance, and dissemination of results. Direct impact of the project is hard to assess, but it has addressed some of the most important concerns with respect to the barriers to labour market access, namely language and other skills and their recognition and formalization.

The COPE project²⁵⁹ ran within closed centres between 2008 and 2009, and provided language training²⁶⁰ as well as cultural orientation sessions for migrants in detention. It also included a 40-hour course, run by ETC which aimed at assisting job-seekers in their search for employment through the provision of basic skills, which included among others modules on communication, decision-making, problem-solving skills, teamwork, job-seeking, the ETC services and employment laws.

At the time of writing AWAS together with ETC, are planning to set up employment support offices for migrants, which should address the precarious situation of people waiting for temporary jobs on a daily basis outside the open centres. According to the plans, the offices would link employers and the protected person living in the open centres that are looking for short-term jobs in a legal and open manner and under the guidance of ETC.

The ESTEEM project which was managed by the Department of Social Policy and Social work at the University of Malta aimed at encouraging entry to tertiary or vocational education for people who have experienced social disadvantage. In this context, the project supported individuals in formalizing and advancing their skills in order to be able to access the labour market. Among the project outputs was a user-friendly and accessible system for assessing and formalizing skills. Participants were also provided with assistance in the compilation of their personal portfolio of experience.

²⁵⁷ See National Report on Strategies for Social protection and social inclusion 2008-2010; Pg. 57

²⁵⁸ At the time when the application for funding was made, the Agency was responsible for the management of one of the open centres hosting asylum-seekers. This experience led to the realisation of the need to offer training and facilitate integration of this category of persons into Maltese society.

²⁵⁹ Managed by IOM and AWAS.

²⁶⁰ Organized by the Foundation for Educational Services.

Discrimination in Employment

Discrimination on the basis of, inter alia, racial or ethnic origin and religion or religious belief in employment is prohibited. The National Commission for the Promotion of Equality is responsible for upholding equal opportunities. Combating racial discrimination in employment is enforced by the Department of Industrial Relations and the Industrial Tribunal. At the time of writing, no cases had been brought before the tribunal on the basis of racial discrimination. The People for Change Foundation contends that this remedy is neither well-known nor sufficiently accessible. There is also no independent body to support cases. Residual powers on their enforcement lie with the civil courts.

Despite the relatively strong legal framework, labour market and racial discrimination within persist. The Eurobarometer (EB) Survey of Discrimination in the EU 2009²⁶¹ found that 77 per cent of Maltese respondents believe that discrimination on the basis of racial or ethnic origin is widespread in Malta.

The National Commission for the Promotion of Equality published the “Racial and Ethnic Origin Equality Manual Toolkit”²⁶² that serves as a tool for employers and service providers to take up their responsibilities under the new equality legislation.

As a rule, employment relationships of migrants are characterised by informality and low job stability due to often temporary and seasonal nature of employment. The situation was summarized by ECRI as follows:

...a large number of these permit holders continue to be employed in the black economy, a circumstance that makes them more vulnerable to exploitation by their employers. For instance, not only is remuneration reported to be considerably lower for these workers, but in some cases employers also simply refuse to pay them. ECRI notes that there have been cases where the trade unions have had to intervene to secure such payments. Longer working hours, worse conditions of work and exposure to safety hazards have also been reported. Although ECRI understands that no formal complaints have been filed, there have also been allegations of racial discrimination in recruitment.²⁶³

The existing structures within open centres, and specifically the assumption that not registering within the centre for three weeks is taken as an indication of stable employment thus resulting in the loss of a state-provided per diem, fails to take account of the precarious and short-term nature of migrant employment. This has led to various problems including the placing of persons at the risk of destitution (mainly because re-admission into the open centres and the allowance system is done only in exceptional cases).

²⁶¹ Available at: http://ec.europa.eu/public_opinion/archives/ebs/ebs_317_fact_mt_en.pdf

²⁶² Available at: <http://www.equality.gov.mt>

²⁶³ ECRI; Third Report on Malta; Pg. 30 Available at http://www.mjha.gov.mt/downloads/documents/ecri_report.pdf

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- | | |
|----------------------------------|---|
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| Chapter 12 of the Laws of Malta | Code of Organisation and Civil Procedure |
| Chapter 55 of the Laws of Malta | Notarial Profession and Notarial Archives Act |
| Chapter 217 of the Laws of Malta | Immigration Act |
| Chapter 363 of the Laws of Malta | Local Councils Act |
| Chapter 420 of the Laws of Malta | Refugee Act |
| Chapter 464 of the Laws of Malta | Healthcare Professions Act |

Legal Notices available at: <http://justiceservices.gov.mt/LegalPublications.aspx?pageid=32&type=4>

- 2002 Legal Notice 259 of 2002, Migrant Workers (Child Education) Regulations.
- 2004 Legal Notice 461 of 2004, Equal Treatment in Employment Regulations.
- 2005 Legal Notice 320 of 2005, Reception of Asylum Seekers (Minimum Standards) Regulations.
- 2006 Legal Notice 278 of 2006, Status of Long-Term Residents (Third Country Nationals) Regulations
- 2007 Legal Notice 150 of 2007, Family Reunification Regulations
- 2008 Legal Notice 29 of 2008 which transposes Council Directive 2004/11/EC, Conditions of Admission of Third Country Nationals for the Purposes of Studies Regulations.
- 2008 Legal Notice 243 of 2008, Procedural Standards in Examining Applications for Refugee Status Regulations.
- 2009 Legal Notice 205 of 2009, Agency for the Welfare of Asylum Seekers Regulations
- 2010 Legal notice 370 of 2010, Status of Long-term Residents (Third Country Nationals) (Amendment) Regulations.

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EURES Malta, <https://www.eures.com.mt>

Malta Department of Information, http://www.doi.gov.mt/EN/ministries_and_departments/portfolio08.asp

Malta Qualifications Council, <http://www.mqc.gov.mt/home>

Migration Integration Policy Index Malta, <http://www.integrationindex.eu/topics/2458.html>

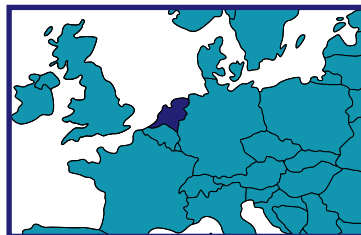
National Commission for the Promotion of Equality, <http://www.equality.gov.mt/>

Malta Chamber of SMEs, www.grtu.net

The People for Change Foundation, www.pfcmalta.org

NETHERLANDS

Jennifer Aggus²⁶⁴



Since 1995 labour migration in the Netherlands has been primarily governed by the “Act on the Employment of Aliens” (Wet Arbeid Vreemdelingen – WAV), restrictive legislation with the primary aim of regulating the Dutch labour market through granting priority to employees legally residing in the Netherlands, curbing unfair labour market competition and fraud through the reduction of illegal employment, and directly combating labour market abuses.²⁶⁵

The government has committed itself to distinguishing “between forms of labour migration that could ultimately result in permanent settlement in the Netherlands, and forms of labour migration whereby the temporary nature of such employment must continue to be strictly enforced” (Ministry of Justice, 2006: 7). In the light of these forms of employment where the temporary nature must be “strictly enforced”, a non-renewable residence permit with a validity of no more than one year has been introduced, which comes with a very specific, and limited package of rights.

Institutional and Legal Framework for Admission and Employment

Several Dutch ministries work together to govern various aspects of the immigration process. Specifically, the Ministry of Justice, with its Immigration and Naturalisation Service (IND) is responsible for legal admission and issuance of visas and residence permits for all categories of migrants to the Netherlands. Directly related to labour migration is the Ministry of Social Affairs and Employment (SZW), which governs employment law, enforces employment rights and upholds the WAV among other legislation.

²⁶⁴ Jennifer Aggus is a consultant at IOM Hague

²⁶⁵ Ministry of Social Affairs and Employment, www.wetarbeidvreemdelingen.nl

Work Permit

As a rule, third-country nationals “only receive a temporary work and residence permit (usually not exceeding a one-year period). Once the employment period is coming to its end, the work permit may be extended, provided that the same conditions still prevail. After a three-year period, a work permit is no longer required and the employee may seek employment with another employer if he/she so desires” (Doomernik, 2003: 164).

Contracted non-EU employees have to demonstrate a valid and legal employment contract with an employer in the Netherlands and submit proof of sufficient funds to support themselves for the intended period of residence prior to issuance of the permits and the of the first paycheck. This amount is determined based on the current minimum wage standards, as officially monitored through SZW.

In practice under the WAV, a work permit (tewerkstellingsvergunning - TWV) regulation is applicable to all third-country nationals, as well as workers from Romania and Bulgaria. For open positions, the Dutch labour office, UWV WERKbedrijf assesses whether job-seekers from the prioritized workforce (that is Dutch or EU/EEA nationals) are available. The UWV ultimately issues the permit only if the salary conditions are in line with relevant labour agreements, and if there is adequate housing available.

A residence permit (in addition to the work permit) is also required for the EU citizens and the third-country nationals who want to work in the Netherlands. This residence permit (Machtiging tot Voorlopig Verblijf - MVV) can be obtained provisionally by the employer through the Immigration and Naturalisation Service (IND) of the Ministry of Justice and under conditions of urgency. The procedure has the potential to be fast-tracked. It is expected that potential labour migrants have proof of sufficient funds to support themselves while the application for the MVV is being processed. For employers who often employ foreign nationals, such as universities or multinational corporations, a shortened MVV/VVR procedure exists (4-6 weeks following the application).

Upon arrival in the Netherlands, non-EU migrants must apply for a residence permit (VVR) with the Alien Registration Office, while in case of labour migrants a work permit (TWV) has already been applied for on their behalf by the employer. Third-country nationals must further apply for a citizen service number (BSN – requirement in connection with the income tax system) in order to legally work in the Netherlands.

Third-country nationals willing to be entrepreneurs have to meet the requirements to start a business in the Netherlands, namely produce a proof of start-up capital, comply with legal requirements, and demonstrate the completion of all necessary education and certification in connection with the specific profession. Third-country entrepreneurs must also demonstrate the added value of the business to the Dutch economy. Finally, the migrant must provide proof of sufficient and sustainable income, demonstrating an ability to earn a gross income of at least 1,070.50 euros per month. This income should be reflected in the business plan and must be available for at least 12 months at the time of application.

Since 2001, “anyone admitted as an asylum seeker (...) is granted all the rights previously reserved for recognised refugees. This includes the right to work” (Doomernik, 2003: 167 – 168).

Guest lecturers or researches (both paid and unpaid) are admitted to the Netherlands under the condition of holding an employment contract to deliver lectures as a guest lecturer at a university or higher professional institution, or a contract to work as a paid researcher or unpaid research scientist. For a single third-country national, the necessary income is at least EUR 991.20 gross per month without vacation pay; for a migrant with dependents, the necessary income is at least EUR 1,416.00 gross per month. This income must be available for at least 12 months at the time of application.²⁶⁶ If unpaid, the migrant should have obtained a scholarship or a grant from a recognized provider (such as a Dutch or an EU institution).

Seasonal Migrants

One practical initiative designed to meet the demand for labour in agriculture as well as combat irregular employment is the Seasonal Work Project (Seizoensarbeid Project) developed as a joint initiative between UWV and the Agriculture and Horticulture Organisation (Land en Tuinbouw Organisatie – LTO). Under this initiative, workers primarily from Poland but also from other countries are entitled to enter the country for three months of seasonal work after the successful completion of the labour market test (ACVZ, 2003: 97 – 98). This programme is still ongoing and had 287 placements in 2004 and 1,011 placements in 2005.²⁶⁷

Knowledge Migrants and Dutch University Graduates

‘Kennismigrantenregeling’ (Knowledge Migrant Scheme) was introduced in 2004 to facilitate access to the labour market for highly skilled migrants. Since its launch, approximately 13,000 ‘knowledge’ migrants have come to the Netherlands (IND, Monitor 2008). These eligible third-country nationals possess a university degree, are likely to secure a Dutch employment contract for an indefinite period, and would earn a gross annual income of 49,087 euros (in case of migrants over 30 years of age) or 35,997 euros (under 30). Migrants who are able to demonstrate their financial resources and knowledge to begin an innovative business in the Netherlands are also included in the scheme (INDIAC, 2009: 32). The qualified applicants receive a five-year residence permit. Foreign students pursuing a degree in the Netherlands are entitled to a one-year residence permit in order to secure employment after the successful completion of their studies (IOM/EP, 2008; Ministry of Justice, 2006: 7).

The Dutch government has discussed recently the possibility of admission to the Netherlands on the basis of ‘personal talents’, through a ‘points system’, as opposed to admission and work permit renewal on the basis of annual income, upon which the system is currently based. The proposed ‘special talent scheme’ is less geared toward migrants looking to access paid employment, but is instead focused on migrants who can demonstrate a reasonable ability to establish themselves as freelancers or entrepreneurs (Ministry of Justice, 2006: 7).

²⁶⁶ If the employment contract is for a period shorter than a year, the income must be available for the total duration of residence in the Netherlands.

²⁶⁷ http://www.rwi.nl/nl-NL/Datasources/News/17/Bescheiden_toename_inschakeling_uitkeringsgerechtigden_in_seizoensarbeid

Since January 1, 2009 a new Admission Scheme for Highly Educated Foreign Nationals has been in effect, through which highly educated foreign nationals with at least a master's degree from one of the top 150 universities in the world²⁶⁸ can be granted one-year residence permit in order to find a job or develop an innovative business.

Institutional and Policy Framework for Integration

The Dutch position on the overall integration of the migrant population is centred on the notion that the responsibility to integrate is that of the individual migrant. In terms of the labour market outcomes of asylum-seekers and family migrants, there is evidence that their situation could be significantly improved were Dutch integration policy to focus on *early* labour market access in addition to language acquisition and cultural literacy (OECD, 2008: 2).

Under the Ministry of Public Housing, Spatial Planning and the Environment (VROM), the Department of Living, Neighbourhoods and Integration (WWI) manages, among other matters, portfolios related to naturalisation and integration programming and policy, including the Civic Integration Act (Wet Inburgering - WI) and the Delta Civic Integration Plan. The Ministry of Education, Culture and Science (OCW) governs policy and programming aimed at increasing levels of educational attainment among vulnerable groups, which includes migrants and ethnic minority youth. Contracted to carry out policy and conduct research, such organisations exist as the UWV, as well as the Central Planning Council (CPB) and the Social and Cultural Planning Council (SCP). The UWV issues work permits on behalf of SZW and offers services in employment support for both employers and job-seekers. The CPB, among other things, conducts research and monitors the labour market in the Netherlands and the SCP conducts research and reports on such social issues as labour market discrimination.

Until 2003, the above-mentioned ministries produced and governed a range or targeted measures aimed at the integration of migrant groups. However, in 2003 a decentralisation policy in the Netherlands was adopted, awarding more responsibility to municipalities for integration within their own communities and for providing and monitoring the overall framework handed down from the ministries. The municipalities are thus responsible for social assistance recipients and for developing their own labour market inclusion policies. Nevertheless, like at the national level through UWV, the municipalities tend to contract out labour market inclusion initiatives to private service providers or NGOs. Since 2003 municipalities also carry out and monitor the Delta Civic Integration Programme.

The Delta Civic Integration Programme initiates a curriculum for integration courses, with a focus on cultural competency and a requirement to be met in terms of language acquisition. Labour migrants are not required by Dutch law to participate in these integration courses, as opposed to asylum and most family migrants who have an obligation to follow the course (Doomernik, 2003: 166). The Delta Civic Integration

²⁶⁸ As determined through the Times Higher Education Supplement (www.timeshighereducation.co.uk) or the Jiao Tong Shanghai University (www.arwu.org)

Programme is directed at permanent migrants, and is not obligatory for, nor promoted to, temporary labour migrants.

Labour market participation among female spouses through the family reunification programme is lower than the national Dutch average, and although a significant share of family migrants are still of school-age, many demonstrate a desire to access employment (Doomernik, 2003: 168). While for these specific groups the Delta Civic Integration Programme is currently presented as the strategy to ensure labour market access, its current focus on language and cultural integration falls short of the anticipated needs of these other classes of migrants, and should likely include specific employment support strategies in order to best serve these populations.

Active Labour Market Measures

Recognizing the major challenges facing the Dutch labour market into the future (namely aging, globalization and technological advancements) the cabinet has set a labour market participation target of 80 per cent by 2016.²⁶⁹ At the Participation Summit in June 2007, the Dutch government concluded agreements with social partners and municipalities to support 200,000 people (including ethnic minority migrants) who have a weak position in the labour market to access employment.²⁷⁰ Another measure in which expansion may allow for increased labour market absorption of migrants is in offering wage subsidies.

With reference to vulnerable groups' integration, an earned income tax credit introduced on 1 January 2009 helps to make "work pay", especially for low- and unskilled workers. Also, regional locations of UWV have become contact points for both job-seekers and employers, providing integrated services in the implementation of the reintegration process. This allows for more efficient and accurate job-skills matching (Ministry of Economic Affairs, 2008: 12).

In response to the diminished participation rates of the migrant population, particularly in the context of an economic downturn, the Ministry of Economic Affairs in the National Reform Programme (NFP) Report 2008 – 2010 has suggested the following strategies targeted at participation rate improvement (particularly of vulnerable groups, including migrants) in 2010:

- Financial rewards for employees and employers alike will facilitate either income related negative taxation or salary cost subsidies;
- "Participation sites" will create opportunities for the unemployed to experience work while maintaining social assistance benefits, which from 2009 will be accompanied by training options as well as additional financial bonuses;
- Local authorities will be awarded additional discretionary power in budgetary terms and in terms of tailor-made actions in order to assure the social and economic inclusion of the most vulnerable groups (Nederland et al., 2008: 8).

²⁶⁹ National Reform Programme for the Netherlands 2008 – 2010: 11

²⁷⁰ Ibidem.

Labour Mobility Centres are present in 30 regions across the country and are focused on the specific labour market needs of the given areas, as well as on improvement of labour mobility and flexicurity. The centres support job-skill matching with a focus on work-to-work transitions at the local level, and are offered through private-public partnerships in response to mass layoffs.²⁷¹

In order to address the labour market exclusion of migrant women the programme 'A Thousand and One Strengths' was implemented (Ministry of Economic Affairs, 2008: 66; Nederland et al., 2008: 9). As many migrant women have come to the Netherlands through family reunification, additional labour market integration support they receive (in the form of volunteer placements) enhances the results of the Delta Civic Integration Programme and serves to increase their likelihood of access to the labour market.

Discrimination in Employment

Despite the fact that national statistics suggest no more than five per cent of labour market discrimination based on skin colour, sources such as the Social and Cultural Planning Council and Ministry of Social Affairs and Employment have encouraged a national focus on labour market discrimination (including both discrimination in hiring practice and discrimination in the workplace) through research and programming. A study entitled 'Rather Mark than Mohammed' demonstrates significant levels of discrimination in the selection process of CVs, based solely upon native or Western versus non-Western-sounding names (Andriessen, 2010).

The Tweede Kamer (Lower House) of the Dutch parliament accepted an Action Plan to Combat Labour Market Discrimination on 13 December 2007. It included strategies to create positive preconceptions of ethnic minority workers among employers and colleagues, as well as to combat prejudice in recruitment and selection processes, and in the workplace (Ministry of Economic Affairs, 2008: 66). Some of these strategies include government-initiated or funded programmes ('Colour in Care' and 'Colourful Inspiration for Colourful Success' through FORUM, an NGO located in Utrecht), as well as the sponsorship of the National Network for Diversity Management, which is mandated to implement a number of work programs focused on diversity in small and medium-sized enterprises and a number of public sectors. Additionally, SZW supports the Social and Cultural Planning Council in the production of research reports concerning the monitoring of discrimination in the workplace, as well as a "Planning Discrimination Monitor" concerning labour market and workplace discrimination from 2010 to 2012, scheduled to begin in September 2010.

The Dutch Equal Treatment Commission (Commissie Gelijke Behandeling) exists to promote and monitor Dutch equal treatment legislation, which stipulates the illegality of unequal treatment in such areas as employment, working hours, (dis)ability, and receipt of services in civil and governmental spheres (OSCE, IOM and ILO, 2006: 151).²⁷²

²⁷¹ OECD, Forum Partnerships 2009: www.oecd.org/cfe/leed/forum/partnerships

²⁷² <http://www.cgb.nl>.

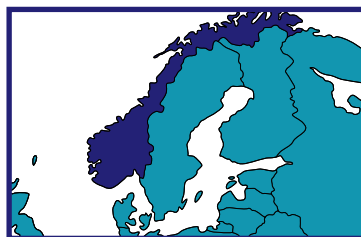
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NORWAY

Litt Woon Long²⁷³



Norway's migration policies are partly aligned to the European Union through its membership of the European Economic Area, the Schengen Agreement on free movement and the Dublin Convention on asylum.

Recent legislation (as of 1 January 2010) in the area of migration has focused on clarifying certain aspects of regulation and international legal obligations. The important changes include broadening the concept of a refugee and hence strengthening the right to family reunification. However, more restrictive measures have been simultaneously implemented to reduce the number of asylum seekers. Additionally, rules regarding subsistence requirements for family migration have been recently tightened and other restrictive regulations for family migrants have been introduced.²⁷⁴ Consequently, though the concept of refugees has been broadened, in practice this does not necessarily mean more refugees will be accepted to Norway.

Recent legislation on integration has focused on comprehensive introduction programmes for certain groups of newcomers, curbing forced marriages, reforming nationality law and bolstering anti-discrimination and equality laws.

Institutional and Legal Framework for Admission and Employment

The Norwegian Ministry of Justice, in particular its Directorate of Immigration has the primary responsibility for migration policy.

Some relevant characteristics of the Norwegian migrant admission regime include:

²⁷³ Litt Woon Long is the founder and the director of the Long & Olsen consultancy.

²⁷⁴ Thorud, Espen, International Migration 2008-2009, SOPEMI report for Norway, Norwegian Ministry of Labour and Social Inclusion (2009).

- Employment tests, not shortage lists, are used to identify labour needs;
- The Norwegian Government²⁷⁵ aims to ensure more flexible and rapid reaction to labour market needs, for example, by setting target deadlines of four weeks for processing work permits (after all the necessary documentation has been completed). As this is a fairly new measure, its effectiveness is still unclear;
- After a short period, migrants can change their permit, employer, job or industry and can continue to live and work in Norway. They can remain living in the country and look for new work in the case of job loss. Termination of a contract is not a reason for revoking or refusing to renew work/residence permits;
- Family migration permit holders over the age of 18 have access to the labour market. The family migration permit is granted for one year at a time. If the sponsor living in Norway holds a time-limited residence permit, the duration of the family member's permit is dependent on the duration of the sponsor's. If the sponsor dies, family members are entitled to a new residence permit;
- Family migration permit holders who are subjected to physical or psychological abuse by their spouse do not have to continue to live in the relationship out of fear of losing their residence permits. They may apply for residence permits on an independent basis;
- All work permits, apart from seasonal permits, can be renewed;
- For non EU/EEA nationals there is a quota of 5,000 permits per year for highly skilled migrants and specialists;
- There are no legal admission channels for low-skilled non-EU migrant workers;
- All migrants have equal access to the welfare state, as for example, healthcare services;
- The institutional set-up for both migration and integration includes non-governmental actors, many of whom receive government funding;
- Migrants are prioritized as a vulnerable group in urban housing policies;²⁷⁶
- Irregular migrants are eligible to access emergency social services.

Institutional and Policy Framework for Integration

The Norwegian Ministry of Children, Equality and Social Inclusion, and in particular its Directorate of Integration and Diversity is in charge of integration policy. Local governance structures are important implementing partners of integration measures. Local municipalities receive subsidies and grants from the national budget that are not earmarked, but are meant to improve general integration efforts in local municipalities.

²⁷⁵ Labour Migration, Report No. 18 (2007-2008) to Storting, Norwegian Ministry of Labour and Social Inclusion (2008).

²⁷⁶ Though segregation in housing can be observed because of choice and financial ability, Statistics Norway has evidence of improving housing "careers" of migrants over time. See Living conditions among migrants, 2005/2006, Statistics Norway, http://www.ssb.no/english/subjects/00/02/innvlev_en/

In the largest Norwegian cities the Norwegian Labour and Welfare Administration (NAV) has been operating its competence centres *NAV Intro* for the last 25 years. These centres have special competencies in integration issues ranging from Norwegian language and other relevant skill evaluations of applicants to conflict resolution in the workplace. *NAV Intro* centres have also developed learning/training concepts in companies, tailoring labour market measures to the particular needs of employers.

Since 2004, the Introduction Programme is operational, aimed at fostering integration of newly arrived refugees and their family members from non-EEA countries aged between 19 and 55 and who lack basic qualifications for navigating Norwegian society. All local authorities that are settling refugees have a duty to offer an introduction programme. The programme is obligatory, is adapted to the needs of each migrant and consists of language training, education, and work practice.

Norwegian authorities report that in 2008, 53 per cent of the participants took up employment or education at the end of the programme. Figures from Statistics Norway show that 65 per cent of those leaving the introduction programme in 2006 were in employment or education the following year. However, it should be noted that these relatively optimistic figures were obtained in a period (2004-2008) characterised by strong economic expansion.

The OECD is concerned that although many participants may need two or even more years to get prepared for the labour market, some could well be ready for sustainable labour market integration before the end of their introduction programme. For programme participants, there are few incentives to take up employment early, since the introduction benefit linked to programme participation is relatively high (OECD, 2009).

Active Labour Market Measures

In the last few years, the pendulum in Norwegian policy has officially swung back and forth between targeting migrants as a prioritised group, and mainstreaming them in general labour market initiatives. According to Norwegian authorities, in practice even after mainstreaming, migrants have remained prioritized as a group because they are over-represented in all critical areas for labour market integration such as long-term unemployment.

Migrants are currently defined in Norwegian labour market policy as a vulnerable group that should be given priority in relation to labour market initiatives.²⁷⁷ By November 2007, persons of migrant background accounted for 40 per cent of the beneficiaries of such schemes (ECRI, 2009). Since 1 February 2010, the government has introduced the right for unemployed persons to receive an individual assessment regarding their work capacity and needs with the aim to provide more individually tailored labour market measures.

Labour market measures in Norway tend to focus more on migrants, and less on employers. One exception is the new legislation that requires certain categories of

²⁷⁷ The National Budget (2009/2010):91, Prop. I S (2009-2010)

employers to report on activities and measures taken to improve diversity aims in the workforce.²⁷⁸ However, the Equality and Anti-discrimination Ombudsman, who is empowered to check on employers' reporting and implementing new measures, has limited resources and sanctions on hand. Hence, the actual effect of this legislation on migrant employment remains to be seen.

Some labour market initiatives are specifically targeted at migrants, including the above-mentioned Introduction Programme for refugees. Furthermore, "Second Chance" is a trial skills programme established in 2005 directed at migrants who do not participate in the labour market after a long duration of residence and are dependent on social security. The programme is modelled on the Introduction Programme for refugees. Sixty-five per cent of the participants in 2008 were women, and in 2009 the programme had a special focus on migrant women outside the labour market and not dependent on social welfare or other subsidies.

Labour market initiatives are generally directed at all unemployed persons, both native-born and migrant, or all residents with "poor work and income earning capacities", such as the programme to increase qualifications as of 1 November 2007.

Research on the effects of labour market measures is limited. However, one study found that certain initiatives are more effective than others, and established overrepresentation or underrepresentation of migrants in specific initiatives or measures (Djuve and Kvinge, 2006):

- There is a wide agreement that wage subsidies have proven to be a particularly effective tool to integrate migrants (and others) into the labour market;
- Wage subsidies combined with either an apprenticeship position or training have also shown to be effective;
- Apprenticeship positions or training have limited effect as stand-alone measures. This applies to both migrants and to other groups;
- Apprenticeship positions and training increases job chances for some groups of so-called non-Western migrants;
- Labour market initiatives tend to channel non-Western migrants to continue to work in some sectors (health, hotels and others) where they are overrepresented;
- Non-Western migrants are overrepresented in initiatives such as training and apprenticeship positions, but underrepresented in effective initiatives like wage subsidies.

Labour market initiatives are usually directed towards those in the labour force – in other words, only at those who are registered as unemployed. Statistics Norway²⁷⁹ is, however, of the opinion that many of the economically non-active migrants would like to work, but do not make any attempt to find work, often due to being disenfranchised.

²⁷⁸ Midsundstad, T., Djuve, A.B. og Drøpping, J.A., Inkluderende arbeidsliv på norsk. En beskrivelse av tiltak rettet mot eldre arbeidstakere og etniske minoriteter i Norge, med sideblikk til Nederland og Danmark (Inclusive work life in Norway. A description of measures directed at older employees and ethnic minorities in Norway, including a look at the Netherlands and Denmark.), Fafo 2003: 13 (2003)

²⁷⁹ Roger Bjørnstad fra Statistisk sentralbyrå (SSB), Integreringskart 2009

These persons are not registered with the labour force and are not, therefore, the target of labour market initiatives.²⁸⁰

Discrimination in Employment

The most recent anti-discrimination legislation was adopted in June 2005, namely the Act Prohibiting Discrimination based on ethnicity and religion, as well as the Act on the Equality and Anti-Discrimination Ombudsman²⁸¹ and an Equality and Anti-Discrimination Tribunal. The new ombudsman mechanism is expected to provide for more comprehensive enforcement in cases of multiple discriminations. The Ombudsman has both proactive and supervisory functions in relation to the Anti-Discrimination Act and other related legislation and regulations.

Some government policy initiatives include requiring public entities to report on the percentage of the workforce with a migrant background. Furthermore the government has initiated a dialogue with managers of state-owned companies with an aim to increase the recruitment of migrants. Currently responsibility for the dialogue has been delegated to the Directorate for Integration and Diversity.

The Council of Europe's ECRI report²⁸² recommends in general that Norway steps up its efforts to generate data on actual manifestations of racial discrimination and on the position of minority groups in a number of areas that could help identify patterns of direct and indirect racial discrimination. Furthermore, the lack of adequate information on the extent to which measures taken to combat racial discrimination have met with success limits the possibility of making fully informed decisions on whether these measures should be continued or replaced.

Despite the lack of hard data, it is highly probable that many migrants experience discrimination in various areas of society, including on the labour market.²⁸³ Around half of all migrants who took part in Statistics Norway's survey on living conditions reported experiencing discrimination in one or more areas of society, and 18 per cent reported having experienced discrimination in the labour market in the past five years.

Situational testing has been carried out by many countries to successfully demonstrate the scope of discrimination, but not yet in Norway. A research project using situational testing is planned and will be carried out by the Institute for Social Research (ISF).

²⁸⁰ However, authorities point out that these persons can qualify to participate in general programmes to increase their qualifications, "Second Chance" or other low threshold measures at the municipal level which may also include labour market measures.

²⁸¹ Since its establishment in 1 January 2006, the Ombudsman has received a total of 121 complaints regarding ethnic discrimination, 2 regarding skin colour, 39 regarding national origin and 19 regarding religion. Annual Report, 2008.

²⁸² ECRI Report on Norway (fourth monitoring cycle), adopted on 20 June 2008, published on 24 February 2009.

²⁸³ See Larsen (1995) regarding the scepticism among employers to hire migrants. See also Kvitasten et al. (1996) who interviewed personnel managers in 233 companies. See also Djuve/Østberg (2002) who observed that officials at employment offices report that "highly qualified Africans never make the mark". See also Rogstad (2000) who differentiates between four types of discrimination; based on preferences, based on customers' prejudices, statistical discrimination and institutional discrimination. Craig (2007) has also written on systemic discrimination.

For several years now, Norwegian authorities and labour unions have been engaged in the fight against social dumping, substandard wages and working conditions, as well as breaches of the tax regulations and undeclared work. In recent years, the construction and the hotels and restaurants sectors have been targeted by authorities. Coordinated inspections by various government agencies have uncovered serious breaches of regulations.²⁸⁴

A recent study shows that migrants tend to have a lower degree of control over their work (Tynes and Sterud, 2009). They also experience a higher degree of harassment and bullying compared to native-born employees, also within the same occupations. The worst work place environments and the largest differences between migrants and native-born can be found in industry, transport and carpentry/repair occupations.

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²⁸⁴ From Eurofound's Country Profile for Norway: Coordinated inspections against social dumping and undeclared work, Norway. See also the Government's plan in the National Budget (in Norwegian) http://statsbudsjettet.no/upload/Statsbudsjett_2009/dokumenter/pdf/aid.pdf

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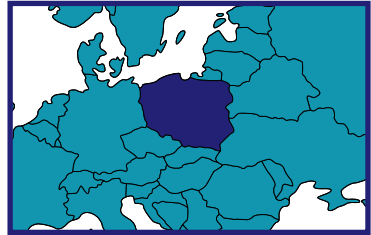
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POLAND

Anna Kicinger²⁸⁵



Institutional and Policy Framework for Admission and Employment

The Polish admission policy is based on the rationale that migrant workers have to be complementary and not competitive to the Polish workers, thus work permits are the main admission instrument for labour migrants. The recent changes in the job permit system were encouraged by NGOs, think tanks and employers that pointed out that the restrictive work permit system is ineffective in managing labour inflow with respect to labour market needs. Due to, among other measures, the introduction of the seasonal migration scheme, migrant inflow today is channelled directly to the labour market and the legal establishment not only facilitates but also enforces labour market participation of migrants. However, with the growing number of exemptions from the work permit system, increasing groups of migrants are eligible to stay in Poland irrespectively of their employment. This might in the future lead to a reorientation of integration policy goals so that integration measures are accessible to all migrants in need, and not only to those in special categories.

The work permit system is employer-driven, as an employer requests the hiring of a foreigner if he/she cannot find a Pole or an EU/EEA national for the post (labour market test²⁸⁶). In practice, work permits are more accessible to highly skilled workers, as their issuance is administratively complicated and requires many documents to be submitted together with the application (although this was simplified and discounted recently).²⁸⁷

²⁸⁵ Anna Kicinger is researcher at the Central European Forum for Migration and Population Research, IOM Warsaw.

²⁸⁶ The applicant (employer) has to submit the opinion of the local authority (*starosta*) on the possibilities to fill the vacancy with the local labour supply (unemployed).

²⁸⁷ The price of a work permit was significantly reduced in 2007 (from the level of minimal wage in Poland (in 2007 – PLN 936) to PLN 50 or 100 (depending on the length of work permit) and the whole procedure was

It is possible to renew a work permit on the initiative of an employer. Work permit holders cannot change their employer; this can only be done through obtaining a new work permit and only if the migrant has a valid permit of stay (works for the previous employer, or has the permit of stay issued on a different basis).

Security of residence of labour migrants is strictly related to the security of their employment. Upon arrival to Poland (having obtained in his/her home country a Polish visa with the right to work), the foreign worker has to apply for a temporary residence permit which is issued for the period of the validity of the work permit. The former is revoked in case the work permit becomes invalid, for instance due to the termination of the respective contract.

Persons seeking protection in Poland are not allowed to work during the administrative procedure.²⁸⁸ This does not facilitate their subsequent labour market inclusion, once the protection status (refugee status or subsidiary protection) has been granted.

Family members of persons with temporary residence permits are granted the same type of permit and need a further work permit in order to undertake employment in Poland (IOM 2008: 374). Once they are granted the temporary residence permit for the purpose of family reunification, they may stay in Poland during the job-seeking period and work permit acquisition procedure. Family members are eligible to receive a temporary residence permit irrespective of the sponsor after five years of stay in Poland.

Due to many factors (human rights considerations, economic needs and political decisions) the work permit system has been gradually relaxed by over thirty exceptions (Kupiszewski et al. 2008: 171-174), including:

- foreigners granted permit to settle and their family members;
- refugees and persons granted subsidiary protection, temporary protection or permits for tolerated stay and their family members;
- EU/EEA nationals and their family members;
- EU long-term residents (also with status granted by another EU country) and their spouses;
- foreign spouses of Polish nationals and descendants of Polish citizens under 21 or persons supported by a Polish citizen;
- holders of a Polish Card (Karta Polaka);
- graduates from Polish universities (but only those that have attended full-time programmes);
- seasonal migrants from selected countries (Ukraine, the Russian Federation, Belarus and Moldova).

simplified in 2009 when a one-stage procedure replaced the earlier two-stage work permit procedure (where the applicant (employer) had to apply first for the affidavit to receive the work permit, and only later for the work permit itself).

²⁸⁸ The only exception is the possibility to apply for a consent to work in case the procedure lasts for more than 12 months due to reasons beyond the applicant.

There are also occupational shortage lists compiled on the regional level (voivodeships) as a function of the situation on the local labour market (often shortages occur in the fields of construction industry and transport). For employers wishing to employ a foreigner in one of these occupations, no labour market test is applied.

Important changes in the Polish labour migration policy were launched in 2006 when the nationals of Poland's neighbouring countries (Ukraine, Belarus and the Russian Federation) were allowed to undertake seasonal employment in agriculture for a period of up to three months without a work permit. In 2007, this regime was extended to all employment sectors; in 2008, a new Ministry ordinance allowed for a period of work not exceeding six consecutive months within a year. In 2009, the seasonal migration scheme was extended to cover the nationals of countries with which Poland cooperates on labour migration within the frame of mobility partnerships signed with the EU. Migrant workers are issued working visas abroad on the basis of registered statements from their future employer in Poland.

The list of foreigners that can undertake all forms of economic activity and be self-employed on equal terms with Polish citizens includes:

- EU/EEA nationals and their family members;
- Persons with a permit to settle, refugees, persons granted subsidiary protection, EU long-term residents, as well as family members of these categories of foreigners arriving with the purpose of family reunification;
- Persons enjoying temporary protection or tolerated stay, spouses of Polish citizens, holders of a Polish Card (article 13 of the Act on the freedom of economic activity);
- Master degree students (in full-time programmes) or doctoral students.

Other foreigners can only undertake economic activity in the following forms: a limited partnership, limited joint-stock partnership, limited liability company or a joint-stock company.

Institutional and Policy Framework for Integration

Since the inflows of migrants are still small and have a mostly temporary, often seasonal and circular character, migrant integration is not yet a priority issue for Polish policymakers. Moreover, most migrants come from European countries (especially Ukraine) and cultural similarity strongly facilitates their accommodation in Poland (Lesińska, 2010). No direct labour market integration measures for migrants are implemented in Poland.

Since 2004 the Ministry of Labour and Social Assistance is the key body responsible for the integration of foreigners, the supervision of the implementation of individual integration programmes for refugees and persons under subsidiary protection, as well as coordination of social assistance to all categories of immigrants. Local authorities do not participate in the integration policy formulation, but play an important role in its implementation.

Some changes in the integration and labour migration policies of the country are forthcoming. The Ministry of Labour and Social Assistance in the National Programme for Social Integration (2008-2010) listed integration through activation on the labour market among the priorities. Migrants are mentioned among the groups at risk of social exclusion, in particular those that seek protection in Poland and often face barriers in labour market entry after their long refugee status procedures (MPiPS, 2008c).

Social benefits (mainly family benefits) and social assistance are available to many groups of legally residing foreigners on the same basis as for nationals, but are generally very low. Social assistance can be provided by commune social assistance centres as financial or material aid to a person in a very dire financial and social situation (such as disability). Although a wide range of legally staying foreigners are eligible²⁸⁹ their income levels exclude them from this scheme (currently the monthly income in a family cannot be higher than 351 PLN (ca. 90 euro) per person).

The right to free healthcare services is provided to all persons insured in the National Fund of Health (NFZ – Narodowy Fundusz Zdrowia). Legally employed migrants are obligatorily insured by their employers (the insurance covers the migrant's spouse and children under 26 years of age). The state covers the insurance fee for asylum seekers, refugees and persons that received subsidiary protection for the period of integration assistance, and registered unemployed migrants. Some groups of foreigners are eligible for insurance on a voluntary basis.²⁹⁰

Active Labour Market Measures

No introduction programmes are run by the state for any group of migrants. The only special integration services offered to migrants are Individual Integration Programmes (IIPs) (implemented since 2001) for refugees, and since May 2008 for persons granted subsidiary protection (but not those granted tolerated stay). IIPs are a general integration measure (including a labour market dimension) implemented by the local administration (*Powiat* Centres for Family Support²⁹¹) and funded by the state budget. IIPs last up to 12 months and encompass benefits in cash for the maintenance and coverage of expenses connected with learning Polish, payment of health insurance contributions and specialised guidance, also in labour market integration (MPiPS, 2008a: 144). The system of IIP is sometimes pointed out as an obstacle to the labour market integration of refugees²⁹² because financial benefits are withdrawn from a refugee that finds work during the duration of the programme (despite the fact that on average the security of employment is always lower at the beginning).

²⁸⁹ Foreigners with a permanent residence permit, EU long term residence permit, temporary residence permit granted to foreigners granted EU long term residence permit by another EU country, refugees and persons granted subsidiary protection, or EU/EEA nationals and their family members. To a limited extent also persons granted tolerated stay.

²⁹⁰ Foreigners with a temporary residence permit; permanent residents; foreign students; foreigners during the Polish language courses preparing to study in Poland; foreign monks.

²⁹¹ A *powiat* is a self-government unit encompassing several local communes.

²⁹² Only 3.2 per cent of participants of the IIP in 2006 were working and economically independent (not beneficent of social assistance) the following year (Klaus, Chrzanoska, 2007: 53).

In the absence of state-run integration programmes, NGOs²⁹³ carry out projects co-financed through EU grants (European Refugee Fund or INTI programme) and the state budget. The projects concentrate on the provision of legal advice, information for migrants, and material help (for the most vulnerable groups seeking international protection), as well as strictly humanitarian assistance (the latter for all categories of migrants). Only recently Stowarzyszenie Interwencji Prawnej (NGO) launched their legal advice programme for all categories of migrants (irrespective of their legal status).²⁹⁴

Migrants are eligible to use general labour market integration measures depending on their status. Only some groups of migrants are eligible to receive unemployment benefits and other services related to unemployment in Poland, including:

- EU/EEA nationals;
- Refugees;
- Holders of a permit to settle;
- EU long-term residents;
- Holders of EU long-term resident permits issued by another EU country who received a temporary residence permit in Poland;
- Family members of Polish nationals.

Labour market integration instruments are thus not available to work permit holders or seasonal workers, the largest groups of foreign workers in Poland. The only form of assistance available for them is state provision of information on labour market opportunities.²⁹⁵

At the end of November 2009, according to the Ministry of Labour and Social Assistance, 2,500 foreigners were registered as unemployed (0.1% of all unemployed), out of which only 191 persons had a right to receive unemployment benefits. Data on the numbers of migrant participants in regular activation measures is not available.

Table 1: Unemployed foreigners in November 2008 and in November 2009

	November 2008	November 2009
Unemployed foreigners	1,700	2,500
Out of which with a right to receive unemployment benefits	98	191

Source: Ministry of Labour and Social Policy.

²⁹³ Including Helsinki Foundation for Human Rights, Caritas Poland, Polish Red Cross, Polish Humanitarian Action, Association for Legal Intervention.

²⁹⁴ <http://www.interwencjaprawna.pl/projekt-sc-cic.html>

²⁹⁵ Services of powiat and voivod job offices with relation to job intermediation or job counseling.

Discrimination in Employment

The Constitution of 1997 states that no one can be discriminated in the political, social or economic sphere on any grounds (Article 32). Racial discrimination and hate crimes are sanctioned with public prosecution in accordance with the Criminal Code (articles 119, 212, 216, 217, 256 and 257 of the Criminal Code).

With respect to employment, the Labour Code prohibits any forms of direct or indirect discrimination on the grounds of race, nationality, religion or ethnic origin (article 18 of the Labour Code).

Neither qualitative research nor official data indicate any considerable scale of discrimination of foreigners in Poland. Economic migrants seldom complain about their employment conditions, especially if they come from poorer countries (Klaus, Wencel, 2008: 27). Moreover, migrants whose stay in Poland depends on a work permit are reluctant to complain in fear of losing their right to work.

Public opinion surveys have shown that acceptance for the employment of foreigners in Poland is gradually rising. In 2008, 81 per cent of Poles admitted that foreigners should be allowed to take jobs in Poland (48% in 1992), and only ten per cent stated that foreigners should not be permitted to work in the country (42% in 1992) (Wenzel, 2009: 11).

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PORTUGAL

Frederica Rodriguez²⁹⁶



Institutional and Policy Framework for Admission and Employment

Since 2003, the admission of foreigners onto the national labour market was regulated by the quota regime. A bi-annual report forecasted maximum limits per year for labour immigration of third-country nationals into Portugal, specifically for a range of sectors experiencing labour shortages. However, this quota system did not appear to have been overly effective, given that numerical limits were not reached, whereas irregular immigration was believed to have continued. This is generally attributed not only to rather bureaucratic procedures, but also because the sectoral quotas have often been too narrowly defined, notably excluding certain low-skilled sectors such as housekeeping, where strong demand has been observed.

As a consequence, in 2007, a new law replaced the former strict quotas with a so-called “global contingent” established by the Ministry of Labour and Social Security. The contingent of occupational needs for third-country nationals is set annually in the Resolution of the Council of Ministers based on an analysis of the labour market needs by the Ministry of Labour and Social Security.

Labour shortages reported by Portuguese employers can be filled through this contingent, if they cannot be satisfied with Portuguese, other EU/EEA, or third-country nationals legally resident in Portugal within 30 days from the time the job vacancy is published. IEFP is involved in the process of granting work permits, but the final decision falls under the competence of the Ministry of Foreign Affairs, through its consular services. The Aliens and Borders Service (SEF) is responsible for the admission of third-country nationals, issuance of residence and work permits, and removal of irregularly residing non-EU nationals.

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This global contingent and labour market tests are only applied for granting residency visas to workers. In this case, the employer submits a vacancy notice to the Institute for Employment and Vocational Training (IEFP). Approved job offers are published online by the (IEFP), and a third-country national will have to apply for the position directly with the employer. The employer selects the worker and sends her/him the employment contract or offer of employment. The contract has to be endorsed by the IEFP, certifying that it complies with the national labour legislation, and meets labour market test requirements.

For temporary workers, the procedure for the employer is the same. The only exception is that the job offer is not then included within the “global quota of occupational needs”. For this purpose, the employer sends to the selected worker the employment contract or offer of employment, together with confirmation from the IEFP that the job offer meets the labour market test.

Generally speaking, the disadvantages of quotas or the annual contingent include their lack of flexibility and inability to respond to fluctuating labour needs. Under the auspices of the new policy introduced in 2007, Portugal established an indicative target for labour migration set at 3,800 workers in 2009 (half of the annual contingent for 2008), and the same figure for 2010. However, as in the past, only 3,300 foreign workers were requested by employers through this channel.

Moreover, the length of the issuance procedure for a temporary stay visa for work or a work residency visa has had an impact on the reaction of the immigration regime to labour market needs. Processing times vary significantly between the different categories of immigration. The maximum period for reaching a decision regarding a temporary stay visa is 30 days from the date that proceedings on the application commence. As this type of visa is only granted for the period of 90 days, or even less depending on the duration of the work contract, a one-month procedure is relatively long. On the other hand, the period to issue a decision on the application for a residency visa is 60 days.

Neither the global quota nor labour market systems are applied for researchers, posted workers, independent professional activity or for migrant entrepreneurs,²⁹⁷ students, trainees or volunteers, and for family reunification.

Seasonal workers are not allowed to apply for another immigration category in Portugal. They cannot remain living in the country and look for work when they lose their job. The termination of a contract is cause for return to their country of origin.

There are no specific legal provisions tying a third-country national to any specific employer, job or position in the case of a residence permit holder. It is also possible to change work permit categories without leaving the country, for example from dependent worker to independent worker, but to that effect a new title has to be requested.

Different procedures may apply under Bilateral Temporary Labour Agreements. Portugal has signed several bilateral agreements with several ex-colonies, such as Cape Verde²⁹⁸ (1997) and Brazil (2003), but also with Ukraine (2005) and Romania (2005).

²⁹⁷ The regulations in Portugal make a distinction between the types of self-employment, dividing the category into individual professional activities and investment.

²⁹⁸ Under revision.

Furthermore, Portugal has signed a multilateral agreement with the Community of Portuguese-Speaking Countries (CPLP) to facilitate CPLP citizen circulation. Certain categories of professionals (for example scientists, researchers, athletes, journalists/reporters, cultural agents and artists) benefit from a multiple-entry visa regime.

For the holders of a temporary residence permit, who have to renew their permits every two years,²⁹⁹ the document is not dependent on the contract. Facing the economic crisis, the Portuguese government decided to facilitate the conditions and procedures for those migrants who had to renew their residence permits. The renewal of a temporary residence permit is dependent upon continued sufficient means of subsistence – established at 450 euros for 2009. In order not to exclude migrants who are unemployed, the government further decided to reduce the amount to 225 euros.

Rights of stay are not lost by temporary returns to the country of origin. In fact, the residence permits of citizens that are absent for periods longer than those established by law³⁰⁰ will not be cancelled, if holders prove that during their period abroad they resided in their country of origin carrying out an activity of a professional, business, social or cultural nature.

A permanent residence permit is granted to foreign citizens that fulfil all of the following conditions: a) hold a temporary residence permit for at least five years; b) during the last five years of residence in Portugal have not been convicted of crimes with penalties that, individually or cumulatively, exceed a one year prison sentence; c) possess means of subsistence; d) have guaranteed lodgings and e) prove to have sufficient command of basic Portuguese. A permanent residence permit has no time limit, but must be renewed every five years.

Moreover, holders of a long-term residence permit automatically obtain long-term EU residence. The status of long-term resident is granted to a third-country national who meets the following criteria: a) legal and uninterrupted residence in Portugal for at least five years before filing the request; b) has stable and regular resources for his/her own livelihood and his/her family members without help from the welfare state; c) holds a health insurance plan; d) has lodging; e) is proficient in basic Portuguese.³⁰¹

Generally speaking the residence permit includes the permission to work, except in cases where the residency is for study, volunteer work or a non-remunerated internship. In those cases migrants have to request a special authorization if they intend to work.

Family migrants may take up jobs straight away, and have the right to education, social security and social assistance. They may already be present in Portugal when they apply, as long as they have legally entered the country.³⁰²

²⁹⁹ When applying for a first residence permit, a third-country national will apply for a temporary residence permit issued for a maximum of one year, renewable for successive periods of two years.

³⁰⁰ Being the holder of a temporary residence permit, six consecutive months or eight interpolated months, within the total validity period of the authorization; being the holder of a permanent residence permit, 24 consecutive months or, in a period of three years 30 interpolated months.

³⁰¹ Third-country nationals do not benefit from long-term resident status if they are temporary migrants, are studying, or are under temporary or subsidiary protection, are refugees or asylum-seekers and their request waits definite decision; or diplomats.

³⁰² By contrast, the previous regime required applications prior to a family member's entry into Portugal in the majority of cases (Act 23/2007, Art.98).

Institutional and Policy Framework for Integration

Despite the country's relatively recent experience as a migrant destination, political measures appear to have been taken very quickly towards integrating migrants into society.

The main actor with respect to integration in Portugal is the High Commission for Immigration and Intercultural Dialogue (ACIDI). Its tasks include promoting integration and policy dialogue on this subject, as well as raising public awareness, and examining the application of legal instruments to combat discrimination on the basis of race, colour, nationality and ethnic origin. In 2008, ACIDI had a total budget of six million euros, an increase of 13 per cent compared to 2007.

The Portuguese government approved and launched the first National Plan for the Integration of Immigrants in 2007. Assuming both a sectoral and a cross-cutting approach,³⁰³ specific areas of intervention for 13 ministries were identified in order to establish joint and convergent political action plan. Civil society organisations further contributed to the definition of the 122 measures covered in the plan.

A Consultative Council for Issues of Immigration (COCAI) was created in 1998 and merged with ACIDI in 2002 for the purpose of ensuring the participation of migrant associations, social partners and welfare institutions in policymaking on integration.

Many local governments have adopted integration as a priority issue, and developed a series of initiatives, programmes and projects aimed at the integration of migrants and promotion of intercultural dialogue, in partnership with migrant associations, private welfare institutions and other entities.

Migrants with permanent and temporary residence status have immediate access to healthcare, public schools, unemployment benefits, family allowances and other benefits.

Active Labour Market Measures

There is a wide spectrum of labour market measures where migrants are the main target group or, in other cases, may benefit from the general measures. IEFP offers a wide range of programmes connected with vocational training, internships and occupational programmes. Though these programmes are not particularly targeting migrants, foreigners can benefit from them like any citizen, if they are in a regular situation.

Around 2004, ACIDI started developing the National Immigrant Support System, a specific free-of-charge service targeting the foreign population, which includes three onestop shop National Immigration Support Centres (CNAI) (in Lisbon, Porto, and Faro), and a vast complementary network of local immigrant support centres (CLAI), dispersed throughout the country. Within this innovative model, the participation of socio-cultural mediators is important. Mediators guarantee not only a cultural and

³⁰³ Such as racism, discrimination, equality and citizenship.

linguistic proximity to each immigrant who uses the services of these centres, but also a fundamental proximity between public administration and migrant citizens.

The main objectives of the CNAIs are apparently successful – from March 2004 to December 2008 in total over 1,688,114 cases were attended to. Currently, the CNAIs have a daily average of 1,192 service-users. Furthermore, the expressed satisfaction of migrants with the quality of the front-line service at the CNAI is significantly positive (Abranches and Alves, 2008).

A further good practice has been developed in Portugal in relation to equipping job centres to facilitate the labour market integration of migrants. Each CNAI runs an Employment Support Office for migrants. This is part of the national network of job centres (UNIVA - Units for Insertion into Active Life) specifically focused on migrants that are formed through partnerships with local organisations – mainly migrant associations, but also with job centres, schools, professional training centres, associations and local authorities.

Currently there are 25 job centres specifically focused on migrants that provide information, assistance to development of job-seeking skills, the dissemination of job and training offers, integration in professional internships or into the labour market including subsequent follow-ups. The CNAI in Lisbon also runs an Entrepreneurship Support Office since October 2006 to support the development of business plans and to promote access to microcredit.

Despite these efforts, the public employment service seems to play only a minor role with respect to the employment of migrants. Evidence suggests that the majority of employed migrants found their job mainly through personal networks (SOPEMI Portugal, 2007).

In fact, research on the effects of targeted labour market measures is limited. There are national evaluations done by ACIDI, but these only encompass the quantitative analysis of the implementations of specific measures, and don't evaluate the real impact.

The government is also implementing the Portugal Host programme to support the adjustment of migrants' competencies to the language and professional demands of the labour market. The programme consists of free-of-charge³⁰⁴ training courses with language, civic and vocational modules. In recent years there was also an increase in the course duration and sector-specific technical Portuguese modules were introduced for the fields of commerce, hotels and restaurants, beauty care, construction and civil engineering.

Recent studies show that difficulties in the recognition of diplomas constitute a recurrent experience among highly qualified migrants (Abranches, 2008; Góis e Marques, 2007; Baganha et al., 2004). Góis e Marques (2007) indicate the following major obstacles: heavy and complex procedures, insufficient resources and structures, a deficit of information and an excess of corporate atavisms present in some professional representative bodies.

³⁰⁴ The programme is not compulsory and does not involve a fee. In fact, trainees receive a food subsidy and support for transport costs while attending the courses.

Discrimination in Employment

In 1999, the Commission for Equality and Against Racial Discrimination³⁰⁵ (CICDR) was established to monitor and combat discrimination on the basis of race, nationality or ethnicity. After 2002, it started functioning under ACIDI though with limited financial and human resources.³⁰⁶

Additionally, a Support Unit for Immigrant Victims of Racial or Ethnic Discrimination was created in partnership with the Portuguese Association for Victim Support (APAV) to provide various types of assistance to migrant victims of crimes and victims of racial or ethnic discrimination.

In terms of self-perception and discrimination, the majority of migrants report never having felt any difference in their treatment by the Portuguese relative to their status as migrants (Lages et al., 2006). A major opinion poll³⁰⁷ in 2004 revealed that the great majority of Portuguese agree with the fact that migrants enrich the cultural and economic life of the country. However, 61.3 per cent of the Portuguese believe that migrants should be sent back to their country of origin when they are jobless. A little over a third of respondents replied that they would not accept a migrant as a boss (Lages et al., 2006). In the same vein, a study carried out by Marques (2007) concluded that the Portuguese society has a deep self-perception of itself as anti-racist, which in his opinion is not only false, but there is indeed a double type of racism reflected in the Portuguese society: against black Africans and against the Roma.

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³⁰⁵ Under Law no. 134/99 of 28 August.

³⁰⁶ Under Decree-Law no. 251/2002 of 22 November.

³⁰⁷ The project "Immigrants and the Portuguese Population, Reciprocal Perceptions" attempts to detect the ideas and perceptions that the Portuguese and migrant population have of each other in various aspects of their lives. In the Portuguese population sample, 1,539 people were surveyed, randomly chosen. In the sample of the migrant population, valid replies were obtained from 1,454 people who were chosen randomly when the number of migrants surpassed the intended sample in the parish (Lages et al., 2006).

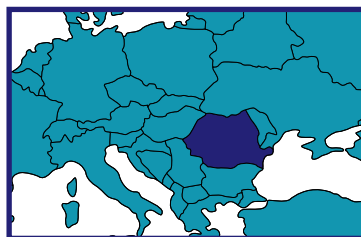
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ROMANIA

Iris Alexe³⁰⁸



Institutional and Policy Framework for Admission and Employment

The National Strategy on Immigration adopted in 2007 governs the actions of Romanian institutions in the field of immigration, asylum and integration of third-country nationals. The Strategy is implemented through annual Action Plans, approved by the Government.

The Ministry of Interior and Administration (MIA), through the Romanian Office for Immigration (ROI) is in charge of coordination and monitoring of the immigration policies and migrant integration in Romania.

To work in Romania, a third-country national first needs a long-term visa (entry and stay in Romania for up to 90 days) that grants the possibility to then apply for an extended stay in Romania. Extended long-term visas are issued for the following purposes: economic activities, professional activities, carrying out commercial activities, employment, studies, family reunification, religious or humanitarian activities, research and other purposes, such as medical treatment. Holding a long-term visa is a precondition to requesting the extension of a temporary right to stay and a residence permit.

A foreigner who obtained the permit of stay on Romanian territory, or a foreigner that had their permit of stay extended by ROI, may receive a residence permit issued respective to the purpose of stay.³⁰⁹

For a non-EU national to legally work in Romania, the employer must request from ROI a work authorization provided a labour market need is identified. In particular, the vacancy could not be filled with Romanian or EU/EEA nationals or permanent residents; and the work authorization is within the annual quota approved by government.

³⁰⁸ Iris Alexe coordinates the Migration and Development Programme at Soros Foundation in Romania.

³⁰⁹ See also EP and IOM, 2008.

Every year, as a result of a tripartite negotiations between the government (Ministry of Labour, Family and Social Policy), trade unions and employers, and based on the economic forecast and previous labour immigration experience, the government decides on the annual national quota that defines the number of work authorization categories for third-country nationals. In case of further demand for migrant labour, the annual quota may be increased. However, ROI is the final authority that grants the work authorizations, which makes institutional coordination difficult.

There are several types of work authorizations granted to third-country nationals: for posted, permanent (indefinite or fixed-term employment contract), seasonal (up to six months in one year period), apprentices (seeking a professional qualification), professional athletes, nominal work authorization for seasonal activities, and cross-border workers.

There are several categories of third-country nationals that can legally work in Romania with a work permit: migrant workers, posted workers, students (work permit needed in order to work with an individual contract up to four hours a day) and other categories.³¹⁰ Several categories of foreigners do not require work authorization, including those granted a form of protection, permanent residence status, and EU nationals.

The employer requesting the work authorization must present a number of documents, including proof of the legal selection procedure of the potential migrant employee, a certification issued by the Public Employment Service about vacant jobs and the locally available work force, a job advert in a large circulation newspaper and a record of the employer's efforts in the selection procedure, and so forth. Also, the foreigner must demonstrate minimal knowledge of Romanian. However, no institution controls the migrant's knowledge of Romanian when they enter the country and there is no established standard to assess what minimal knowledge means.

The work authorization is issued under the migrant's name after the employer submits an application to ROI. For each work authorization issued, the employer pays a 200 euros fee. Irrespective of the category of workers, the administrative procedure for the work authorization issuance involves only the employer and ROI. Migrant workers expressed their concerns on the strict conditions of admission and hiring of third-country nationals in Romania. They declared that only "*big companies*" would afford to employ immigrants, while others would rely on undeclared work.³¹¹

To avoid the length and costs of these procedures, employers resort to posted workers.³¹² In the case of posted workers the labour legislation is substituted by the commercial code, and the employer has no obligation to submit employment documents to Territorial Labour Inspectorates. This leads to a situation where no

³¹⁰ GEO 56/2007: "Work authorization is issued to aliens who: a. come from countries with which Romania has concluded agreements, conventions or treaties abolishing visas for border crossing for this purpose, or for which Romania has withdrawn the visa requirement; b. have the right of temporary residence for family reunification, given the legal requirements on aliens in Romania."

³¹¹ Research report: Immigrants' information needs in Romania (November 2009), Soros Foundation, Bucharest.

³¹² The workers come to Romania pursuant to a relocation decision to a Romanian employer, which is issued by an employer headquartered abroad, the execution of the employment agreement effective with the employer receiving the services of the posted worker.

Romanian institution may be held liable for monitoring the posted worker's employment conditions, leaving them at the discretion of employers in the country of origin and/or of the hiring company in Romania. After a year of work as a posted worker, the employer can then easily obtain a work authorization for the migrant. The worker does not need to leave the country to obtain a residence permit and a labour market test is not applied.³¹³

Many migrant workers complained³¹⁴ about the short duration of the residence permit. The work authorization is issued for a maximum of 12 months and can be prolonged at the request of the employer: for a posted workers for a maximum 12 months for every five years, and in the case of a permanent worker, for a further year.

After five consecutive years of legal residence in Romania, non-EU nationals can apply for the permanent residence permit. The difficulty to obtain a permanent residence permit is illustrated by the low number of permanent migrants in Romania.

A migrant worker with a work authorization is free to change the employer within the same industry, but the new employer has to inform ROI about the change. Work authorization is cancelled by ROI within five working days upon request of the migrant or employer. When the work authorization is withdrawn as a result of the termination of the employment relationship, other employers may hire aliens provided they had already requested and received from ROI a new work authorization. When the employment relationship is terminated, the employer is obligated to report this to ROI and as such, the residence permit issued for work purposes can be revoked. In this case the migrant is to return to the country of origin within 30 days unless hired by another employer in the same domain of economic activity.

Asylum seekers have no employment rights for one year after filing their asylum application. Persons with tolerated stay status have no right to work, as they are only granted permission to remain on national territory.

Institutional and Policy Framework for Integration

The Government Emergency Ordinance (GEO) 194/2002 introduced for the first time since 1990, the types of assistance to be given to foreigners with a residence permit in order to facilitate their integration into Romania's economic, social and cultural life. The Government Ordinance (GO) 44/2004 on social integration of aliens granted with a form of protection was amended by GO 41/2006 to include third-country nationals as beneficiaries of social integration in Romania. This is to be achieved through tailored integration programs that aim to provide migrants with cultural orientation, counselling and Romanian language courses and to facilitate their access to economic and social rights: employment, education, housing, medical and social assistance.

Labour market integration for migrants also takes place within the wider and general framework of labour market policies and integration measures promoted at national level. Policies and measures for labour market integration are carried out in Romania by

³¹³ Together for Social Europe - briefing of Social Realities in Europe, December 2009.

³¹⁴ Immigrant in Romania. Perspectives and Risks (October 2008), Bucharest, Soros Foundation.

the Ministry of Labour, Family and Social Protection through the National Employment Public Service, at central level and locally, by County Employment Public Services.

In terms of engaging local authorities, improvements can be noticed as a result of the decentralization policy and of the development of consultative mechanisms between the local authorities and migrant communities.³¹⁵ However, migrant integration remains an issue addressed mainly at a national/central level. Little has been done at the local level even relative to specific measures under local responsibility, such as housing, access to education and social welfare. In 2009, the Bucharest local authorities³¹⁶ were faced with a protest lasting several months by 400 Chinese migrant workers due to delays in the provision of emergency services.

Language training is paramount to facilitating social inclusion. Third-country nationals benefit from the initial Romanian language courses and cultural adjustment courses provided by ROI in cooperation with the Romanian Ministry of Education. Significant increase in participation has been observed in 2009, also by humanitarian migrants with respect to their individual integration programmes.

Table 1: Third-country nationals assisted for integration, 2008-2009.

Year	2008	2009	Variation
Number of TCNs counselled	518	2,106	+306.56%
Number of TCNs, beneficiaries of Romanian language classes	175	334	+90.86%

Source: Romanian Office for Immigration Activity Report 2008-2009.

Unfortunately Romanian language courses are organized only for beginners; the delivery of courses is not tailored to the needs of migrants (working hours, gender, culture and beliefs); and inconsistencies are observed in the implementation process.

In 2008, the Public Employment Service provided labour market integration services that resulted in:³¹⁷ “34 foreigners, one migrant and one refugee reinserted into the Romanian labour market”. The labour reinsertion process refers to active measures such as job orientation and job finding support, training courses and counselling services that were implemented by PES to ensure their reintegration into the labour market.

Discrimination in Employment

Migrant workers are vulnerable to the employers' non-abiding to labour and anti-discrimination legislation. No or very low knowledge of Romanian language often results in lack of information about their rights. Cases were reported when third-

³¹⁵ See the project implemented under EIF, www.ori.mai.gov.ro and project's website www.migrant.ro

³¹⁶ Since January 2009, the Chinese construction workers, who lost employment or had not been paid due the economic crisis, had been gathering in front the Chinese Embassy to ask for solutions. Left with no alternatives, for several months, the Chinese workers had been living in the street and in the nearby park with very limited food resources and no medical care. The Bucharest population and the local NGOs got involved and offered help. The local authorities only provided tents, food and water as special measures for such emergency situation.

³¹⁷ National Reform Programme Implementation Report, (October 2008), Government of Romania.

country workers were forced to put in supplementary hours, receiving less or no payment; employment contract provisions were different than on recruitment; work place security and health were not respected; accommodation conditions were different from those promised. In such cases, third-country nationals have very limited access to channels for complaints and resolution (only through the courts).

In repeated situations migrant workers reacted and protested against employers' abuses and violations of their rights, such as cases of the Chinese and Bangladeshi textile workers in Bacau, the Chinese construction workers in Iasi, or the Congolese taxi drivers and the Chinese construction workers in Bucharest. In all these situations, in the end migrant workers bore all costs without any positive resolution.

Trade unions expressed their concerns regarding the situation of migrant workers and developed actions and good practice, such as the System of Sectoral Self-Regulation in Construction (SASEC) set up through the sectoral social agreement between ARACO Employers' Confederation and the Familia "Anghel Saligny" General Federation of Trade Unions. SASEC has a bargaining committee for migrant workers. Also, trade unions have concluded partnerships and bilateral agreements with countries of origin (with Chinese trade unions in 2009).

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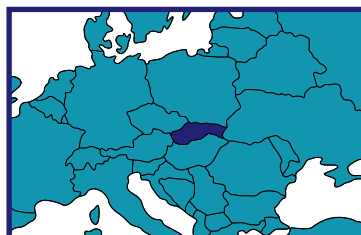
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SLOVAKIA

Zuzana Bargerová³¹⁸



Institutional and Policy Framework for Admission and Employment

In early 2005, the government adopted the Concept on Migration Policy of the Slovak Republic as the principal strategic tool in the field of migration management. The Concept mentioned labour migration rather insufficiently while overemphasizing the areas of irregular and asylum migration (Bargerová, Guličová, 2008: 9).

A central state institution in charge of the migration agenda is sorely missing in Slovakia, therefore the upcoming establishment of the Immigration and Naturalisation Bureau³¹⁹ should improve the effectiveness and co-ordination of migration management in the country (Bargerová, Guličová, 2008: 33). This office will embrace a whole spectrum of tasks related to migrants, from arrival to residency and departure. The Immigration and Naturalisation Bureau would take over some of the current responsibilities of the Bureau of Border and Alien Police including the review of residence permit applications.

The Ministry of the Interior implements its agenda in the field of migration and asylum mainly through two bodies, the Migration Office and the Bureau of Border and Alien Police. In 2007, the Inter-departmental Committee on Labour Migration and Integration of Migrants (MEKOMIC) was established by the same Ministry to provide a platform for dialogue on migration and integration among the representatives of relevant state and non-governmental institutions, and independent experts (Divinský, Bargerová, 2008).

The Committee was replaced in June 2009 by the Management Board for Migration and Integration of Foreigners. The Management Board is responsible for implementing

³¹⁸ Zuzana Bargerová is a consultant at IOM Bratislava.

³¹⁹ By 31 December 2010.

the Concept of Migration Policy and the Concept of Foreigner Integration in Slovakia, monitoring the implementation of related tasks, and coordinating activities of various ministries and international organizations (Potočková, 2009: 13).

The Ministry of Labour, Social Affairs and Family regulates employment of foreigners and sets up criteria for the entry of various categories of foreign nationals into the Slovak labour market, including conditions for granting work permits.

A foreigner who was granted a permanent residence permit or a naturalized foreigner enters the labour market under the same conditions as a citizen of Slovakia. The non-EEA national generally needs to apply for the work permit and temporary residence abroad before arrival, unless the law stipulates otherwise.³²⁰ Entry conditions for financial coverage of the stay for migrant workers were lowered from the minimum wage amount of 307.7 euros³²¹ to the amount of minimum monthly subsistence of 185.2 euros.³²²

The act on Residence of Foreigners (2002) stipulates that the temporary residence permit may be granted to newly arriving non-EEA nationals (up to 2 years, renewable in total up to 5 years) and permanent residence permit may be granted to settled migrants (more than 5 years in the country) or for the purpose of family reunification³²³ (0-5 years; more than 5 years).

Migrants with temporary residence permits may be further categorized according to the various purposes of stay defined in the legislation: employment, business, specific activity (sports, art, lecturing, research and others), studies, family reunification, fulfilling civilian armed forces duties, and as of 2010, voluntary activity and medical treatment.

The regional district Office of Labour, Social Affairs and Family may grant the non-EEA national a work permit after a labour market test. No employment quotas for non-EEA nationals are applicable at the moment.³²⁴

Existing labour admissions policy thus literally prevents the use of a migrant workforce. Both residence and work permit procedures could take some 3-6 months. The migrant is free to change employers and request a new work permit, but only in the case that the original residence permit is still valid. Even a highly skilled worker, in a profession with shortages, must leave Slovakia and apply for a new residence permit from abroad should a work contract be unexpectedly terminated. There is no transition period to find another job. If the consequences of withdrawing the permit were inadequate with respect to the private and family life of the foreigner, the foreign police department should take this into consideration. In practice, however, assessment of the above situation remains at the discretion of the respective officer, since there is no clear definition of criteria for

³²⁰ On the territory of the Slovak Republic a foreigner may apply for a temporary residence permit if: he/she does not need a visa or if he/she applies for a permit for one of the following purposes: study, special activities, some categories of family reunification.

³²¹ In force from 1 January 2010, the amount of minimum salary stated by Regulation of the Government of the Slovak Republic No. 441/2009 Coll. Determining the Amount of Minimal Wage, is 307.70 EUR.

³²² In force from 1 July 2009, amount of a subsistence minimum stated by Act No. 601/2003 Coll. on the Subsistence Minimum and on Amendment and Supplement to Certain Acts, is 185.19 EUR.

³²³ For example a spouse of a Slovak citizen may apply for a permanent residence permit immediately after concluding marriage, either on the territory of the Slovak Republic or from abroad.

³²⁴ Quotas for employment of Ukrainian citizens were abolished with effective from 5 May 2008 by the bilateral Agreement between the Slovak Government and the Ukrainian Government on mutual employment of citizens.

maintaining a residence permit after its intended purpose, which contributes to the legal uncertainty among foreigners and can create a space for corruption.

Admission procedures for entrepreneurs are more difficult and expensive than that for individuals seeking a temporary residence permit for employment purposes, but are perhaps more attractive to migrants due to their flexibility in terms of legal status.

Labour market entry is limited for family migrants from third countries.³²⁵ They may enter into employment one year after obtaining the respective temporary residence permit, and only if the sponsor of their stay is granted temporary residence for the purpose of employment or business.³²⁶ In the case of a divorce, application for the change of residence permit purpose can be submitted on the territory of the Slovak Republic only if the foreigner had been legally staying in Slovakia for five years.³²⁷ Non-EEA nationals married to the Slovak citizens may apply for a permanent residence permit for the purpose of family reunification immediately after marriage on the territory of the Slovak Republic. Non-EEA foreign students³²⁸ may only work for ten hours per week without a work permit.

Asylum seekers whose application has not been lawfully decided upon within one year may start working without a work permit, with the exception of those foreigners whose asylum application has been dismissed as unfounded or impermissible. Persons who are provided subsidiary protection can be granted a work permit without a labour market test.

Foreigners with tolerated stay permits may not be employed, work under contract or conduct business unless otherwise stipulated by the Act on Residence of Foreigners,³²⁹ even after several years of their legal stay in Slovakia. They cannot apply for a status change on the territory of the Slovak Republic. Conditions for the change of status are unclear even after five years of continuous legal residence in Slovakia, which according to the directive on status of long-term residents³³⁰ should be granted.

Institutional and Policy Framework for Integration

The Specialised Department for Migration and Integration of Foreigners (OMIC) was established in 2007 under the Ministry of Labour to address, among other tasks, the coordination and preparation of Concept of Foreigner Integration in the Slovak Republic. OMIC was closed in 2010 and its tasks were transferred to the Department of International Cooperation and Integration of Foreigners and the EU Affairs of the Ministry of Labour.

³²⁵ For example spouses entering the country upon family reunification with a new coming migrant, non-EEA national with temporary residence permit for purpose of work or business.

³²⁶ For example partners of foreign students may not work with this type of residence permit.

³²⁷ Only if the sponsor was granted a temporary residence permit for purpose of employment or entrepreneurship.

³²⁸ Pursuant to last amendment of Act on Residence of Foreigners effective from 1 January 2010, a student (non-EEA national) can apply for temporary residence permit for the purpose of studies and after graduation for a purpose of employment directly on the territory of the Slovak Republic.

³²⁹ For example tolerated stay for the purpose of respect for private and family life.

³³⁰ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.

The first major document on integration of migrants, the Concept of Integration Policy³³¹ was drafted by OMIC, and subsequently adopted in May 2009. The Concept calls for closer involvement of municipal bodies in integration. However, the legislative transfer of competencies has not yet taken place despite its explicit tasking by a government resolution³³² in 2007 to undertake the transfer by 30 June 2009. At the moment, only two of eight higher territorial units are involved in migrant integration projects financed by the European Integration Fund (Košice) and the OpenCities project of the British Council (Nitra).

Civil society and international organizations play an important role in the integration of migrants. Since 2006, the IOM Migration Information Centre provides legal and social counselling to all categories of potential and actual migrants with the goal of facilitating their integration into both the labour market and society. Several NGOs, for example Humanitarian Council, Human Rights League and the Goodwill Society play an active role in individual assistance to asylum seekers and foreigners with granted asylum or subsidiary protection in their labour market integration.

Social policy measures for migrants are carried out by the local Offices of Labour, Social Affairs and Family, falling under the authority of the Central Office of Labour, Social Affairs and Family (Bargerová, Guličová, 2008: 14).

Slovakia does not implement any introduction programme for migrants. Lack of knowledge of the Slovak language however can be considered the most fundamental obstacle to integration into the Slovak labour market. It is also essential in appealing decisions of state institutions.

Furthermore, procedures of professional recognition for regulated professions, including academic recognition, are expensive, time-consuming, and regulated by a large number of separate laws.

The Slovak Act on Residence of Foreigners provides that, in procedures for residence extension, the police department takes into account the degree of the applicant's integration, but does not specify how it would be assessed or documented. In case of a successive permanent residence permit procedure, the police department may request from a foreigner proof of having completed a Slovak language course. The Act again does not specify at what reference level it is necessary to demonstrate the knowledge of Slovak.

Discrimination in Employment

The differentiated treatment of migrants is manifested in various areas such as job searching, housing, or applying for the provision of various services.³³³ Often it is a result of visible and easily recognizable differences (skin colour, clothing, and a foreign-sounding name). Researchers observed that some migrants choose to disguise some

³³¹ Ministry of Labour, Social Affairs and Family of the Slovak Republic: *Concept of Foreigner Integration in the Slovak Republic*; adopted by Government Resolution No. 338/2009 in May 2009.

³³² Government resolution no. 415 of 9 May 2007 on the draft summary report on the status of implementation of tasks of the Concept of Migration Policy development (2005-2006).

³³³ Kriglerova, Kadlečíková, Lajčáková: *Migrants*. CVEK (2009), p. 63.

of their differences in an effort to avoid stigmatization, which indicates a certain level of discrimination.³³⁴ Migrants often report discriminatory behaviour either in their workplace or in provision of services.³³⁵ The potential for protection or redress is questionable in such cases. Recent migrants in low-skilled positions may be and often are reluctant to complain for fear of losing jobs and the corresponding loss of legal status.

There are several possibilities for victims of discrimination in the public and private sectors to redress their situation by legal proceedings through a counsel, NGOs or state institutions. The Slovak National Centre for Human Rights offers assistance to victims of discrimination by providing legal counsel. The Public Defender of Rights offers assistance to individuals whose rights were infringed upon due to activities, actions or inactions by a body of the public administration. The Centre for Legal Assistance offers pro-bono legal assistance to persons in material need. There is a broad network of NGOs in Slovakia that are providing assistance to the victims of racially motivated violence and discrimination.³³⁶ According to the Act 125/2006 on Labour Inspection, the National Labour Inspectorate provides assistance related to discrimination in the workplace through eight labour inspectorates.

Domestic work is not included in the national labour law.

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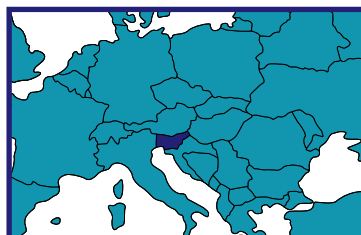
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- **Michal Páleník**, IZ - Employment Institute.
- **Richard Ďurana**, INESS - Institute of Economic and Social Studies.
- **Adriana Weissová**, IOM International Organization for Migration.
- **Boris Divinský**, Independent researcher.
- **Eneke Hanzelová**, IPVPR - Research Institute of Labor, Social Affairs and Family.
- **Boris Katuščík**, International Relations Department, UPSVaR Centre of Labour, Social Affairs and Family.
- **Martin Hošťák**, RUZ - National Union of Employers.
- **Zuzana Številová**, HRL – Human Rights League.
- **Jana Kadlečíková**, CVEK - Center for Research of Ethnicity and Culture.
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SLOVENIA

Mojca Pajnik³³⁷



Institutional and Legal Framework for Admission and Employment

The Ministry of the Interior is generally responsible for migration and integration of migrants in Slovenia. Rules for admission and residence of foreigners are set in the Aliens Act, according to which a third-country national planning to reside in Slovenia for longer than three months for reasons other than those enabling visa-based stay must obtain a residence permit. A temporary residence permit is initially issued with the maximum duration of one year. Permanent residency recognizes more socio-economic and political rights and may be granted to a third-country national residing in Slovenia for an uninterrupted period of five years on the basis of a temporary residence permit.³³⁸

The Employment and Work of Aliens Act establishes the work permit as a prerequisite for a residence permit, which is issued for the duration of the former. Employment permits must therefore be obtained before entering Slovenia and are subject to quota restrictions. For a work permit to be issued to a third-country national unused quotas for foreign workers must still be available and no eligible unemployed nationals should be registered at the Employment Service.³³⁹ The annual quota should not exceed five per cent of the total active Slovenian population. In addition, only a fixed-term employment contract can be concluded with foreigners on a fixed-term work permit.

³³⁷ Mojca Pajnik is a scientific counsellor at the Peace Institute, Institute for Contemporary Social and Political Studies, Ljubljana, Slovenia, and assistant professor at the Faculty for Social Sciences (University of Ljubljana).

³³⁸ The Aliens Act also specifies exceptions to the five year residence requirement: foreigners of Slovene descent; those whose stay is of interest to the state; and relatives of Slovene citizens or of foreigners with permanent residence permit or with refugee status.

³³⁹ Employment Service of the Republic of Slovenia, <http://www.ess.gov.si/> (28 October 2009).

There are three types of work permits that a foreigner can obtain for employment in Slovenia:

- Permits for work are temporary, with their duration depending on the purpose of work. They are subject to quota restrictions and are intended for seasonal work, referred or appointed workers, movement of persons within an enterprise, education and training in Slovenian enterprises for managers, training and contractual services. Permits for work are issued on the application of employer, and are not subject to prior inspection of the actual labour market situation until June 2009, when changes were introduced that affect seasonal jobs, prohibiting seasonal work permits for all sectors but agriculture and forestry, where the labour market demand is deemed to persist;
- Employment permits are issued to a migrant for a maximum of one year and are also issued based on the employer's application. They must be obtained by the employer before a migrant enters Slovenia and are dependent on the absence of suitable registered unemployed nationals, subject to control by the Employment Service of Slovenia;
- The personal work permit is the only permit not related to the labour market demand. The minimum condition for a personal work permit with the duration of one year is a residence permit in Slovenia and residence in Slovenia for at least one uninterrupted year prior to the application. However, an additional stipulation that requires financial means in the amount of 10,000 euros prevents most migrants from applying for this type of permit. Instead, they usually aim to meet the requirement of having been employed by the same employer for two years, which enables them to apply for the personal work permit without the above-mentioned financial requirement. Indefinite personal work permits are issued to foreigners with a permanent resident status and to refugees. They can also be issued for the self-employment of foreigners; with validity of up to three years (with possibility of extension) to foreigners who have been working for the same employer for at least two years; for family reunification to immediate family members of Slovenian citizens and to immediate family members of foreigners with indefinite personal work permit, with the additional requirement of residing in Slovenia for two years. The government has the authority to adopt special measures to limit self-employment of foreigners based on the labour market situation.³⁴⁰

The first two types of permits allow a migrant to work only for one specific employer, but the personal work permit allows a migrant to choose between employers, or to be self-employed. Only migrants holding this type of permit can register as unemployed, and be eligible for unemployment and other benefits, such as parental support and health insurance. However, only a minority of third-country nationals working and living in Slovenia fall under this category.

Due to the economic crisis, the government introduced new measures in June 2009, aimed at protecting domestic workforce jobs. The adopted Decree on Restrictions and Prohibition to Employment and the Work of Aliens, substantially limits the

³⁴⁰ Employment and Work of Aliens Act, Art. 5(9).

opportunities for employment and work of third-country nationals and introduces the following restrictions and prohibitions within the quota:

- Prohibition of seasonal work in all sectors apart from agriculture and forestry. Seasonal work in construction and tourism engaging the majority of migrants is no longer available to them;
- Prohibition on the issuance of new permits to representatives of micro and small companies and to representatives of branch offices;
- Prohibition on the issuance of work permits to companies that do not have vacancies for migrants at the time of issuing the work permit;
- Prohibition on employing third-country nationals from certain regions. The Decree introduces a regional distribution of the quotas: 95 per cent of unused quotas should be distributed among the nationals of Yugoslavia's successor states, except those coming from UNSC Resolution 1244-administered Kosovo.³⁴¹ The remaining 5 per cent should be distributed among citizens of Kosovo/UNSC 1244 and all other third-country nationals;
- Prohibition on issuing work permits for certain occupations: employment in the entertainment sector is severely limited as work permits can now only be issued to foreigners who do not need visas to enter Slovenia, or nationals of countries with visa facilitation agreements with the EU.

As for family reunification, it is accessible only to foreigners with permanent residence permits and those with temporary residence permits valid for at least one year. The validity of the residence permit of family members depends on the status of the residence permit of the applicant. Family members of third-country nationals can initially only obtain temporary residence permits with a maximum duration of one year, which can then be prolonged for up to two years. Family members of a third-country national can obtain a permanent residence permit after five years of uninterrupted residence in Slovenia. Exempt from this provision are family members of third-country nationals with permanent residence permits and refugees, who can apply for a permanent residence permit after two years of uninterrupted residence in Slovenia. Migrants entering on family reunification are deemed to be provided for by the applicant. Work permits may be requested only after a year of residence in Slovenia thus increasing the dependency of these migrants, particularly female ones, and postponing their labour market entry (Pajnik and Bajt forthcoming).

Institutional and Policy Framework for Integration

Integration policies remain caught between the state-level declarations and integration plans that are to be implemented on a regional level. The Ministry of the Interior has proposed publicly on various occasions to establish an inter-agency coordination mechanism, including social work centres, an employment service, municipal administration and health and education authorities, but not much has been done

³⁴¹ Hereinafter referred to as Kosovo/UNSC 1244.

in practice. Policies are adopted with little public debate and limited communication with active civil society. Additionally, no measures have been carried out to engage local administrations and increase their capacity in integration policy implementation. This could change with future legislation on regionalization that will transfer some competencies to the local level, but no details are available regarding implications of this reform for migrant integration policy (Pajnik et al., 2009).

The integration policy of Slovenia was first reflected in the 1999 *Resolution on Immigration Policy* followed by the 2002 *Resolution on Migration Policy*. Despite the fact that both resolutions highlighted the need for a more active integration approach, it remained a declaratory obligation of the state. Both resolutions fail to envisage any change in society at large and define integration only in relation to migrants without proper state support and protection (Pajnik, 2007: 853).

Attempting to surpass this deficiency, in 2008 a Decree on Alien Integration was adopted suggesting integration measures, such as learning the Slovene language, culture and history. Any foreigner regardless of their type of residence or work permit is entitled to free classes on Slovenian culture, history and the Constitution for a maximum duration of 30 hours. Access to language classes for third-country nationals depends on their type of residence permit. Third-country nationals with a permanent residence permit and their family members are entitled to free classes on Slovene language, culture, history and the Constitution for a maximum of 180 hours. Migrants with temporary residence permits are entitled to a maximum of 60 hours of classes but only after holding the residence permit for a minimum of two years.

In practice, it appears that many migrants are not able to attend the courses due to their workload. Their accounts³⁴² indicate long working hours, exhaustion and lack of time preventing them from attending the courses. Many migrants with a temporary residence permit also find that the courses have limited relevance as they are only available after two years of stay in Slovenia.

Furthermore, even highly educated migrants encounter significant difficulties when they want to have their education recognised.³⁴³ Migrant accounts³⁴⁴ indicate that it is not unusual for them to lose work opportunities because of lengthy procedures for the recognition of qualifications. Additionally, many applications are rejected, either because of school systems incompatibility, or because an official processing the application is unfamiliar with the programme and school attended by the applicant and conducts no further investigation.³⁴⁵

³⁴² Interviews with migrants conducted for PRIMTS project. The objective of the PRIMTS project is to consider precarious labour market positions of third-country migrants in lower sectors of economy in order to stimulate integration strategies that are tailored to specific migrants' needs. The analysis covers six EU member states, including Slovenia. See <http://PRIMTS.mirovni-institut.si/>.

³⁴³ Confirmed by interviews conducted for PRIMTS and Femipol projects. The Femipol project (2006-2008) explores and analyses the impact of integration policies on the position of migrant women within 11 EU countries, including Slovenia. For more see <http://www.femipol.uni-frankfurt.de/>. The objective of the PRIMTS project is to consider precarious labour market positions of third-country migrants in lower sectors of economy in order to stimulate integration strategies that are tailored to specific migrants' needs. The analysis covers six EU member states, including Slovenia. See <http://PRIMTS.mirovni-institut.si/>.

³⁴⁴ PRIMTS project.

³⁴⁵ Based on an informal conversation with an anonymous employee at the office for recognising education at the Ministry of Higher Education, Science and Technology; conducted for PRIMTS project.

Discrimination in Employment

Anti-discrimination in employment, defined in the Employment Relationship Act, prohibits discrimination, including on the grounds of nationality, in access to employment and its termination, as well as in the working environment. The Act Implementing the Principle of Equal Treatment that assures equal treatment in all spheres of social life appears too vague to be applicable in practice and may hence discourage persons from filing complaints in court.

According to interviews with migrants, they are often paid less for performing the same work.³⁴⁶

Public opinion polls exhibit that notable shares of Slovenians feel “threatened” by migrants. Research confirms the presence of stereotypes and prejudice against migrants, while media analyses uncover discriminatory practices and exclusionary rhetoric.

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SPAIN

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Until recently, the Spanish authorities did little to coordinate labour flows arriving from abroad. The needs of the specific economic sectors, coupled with lax regulation of the internal labour market, allowed migrants to enter Spain “through the back door”, find work in the informal economy and later receive legal status through regularization programmes.

Establishing a quota system in 1993 was the first attempt to create systematic migration regulation. However, when put into practice this system faced many obstacles including administrative difficulties, its own inflexibility, slowness and a lack of coordination between institutions. In addition, there were disparities between the actual needs of the labour market and the size of the quotas, leading to many irregular workers and businesses simply bypassing the quota system altogether and engaging in the informal economy.

During the first few years of this decade an increase in migratory flows and the demand for workers in certain economic sectors were accompanied by a series of initiatives designed to manage labour migration from abroad in a more orderly way, at the same time reinforcing the fight against irregular immigration while simultaneously increasing border security. The objective of the new measures was to develop an active policy, rather than a reactive one, and to organize the flows so that they would meet the needs of the labour market. This was explained in one of the most complete texts on Spanish policy available at the time, a document known as the Plan Greco, which was published in 2000.

After 2004, Spanish policy on the management of labour flows from abroad has been more active and planned. The quota system was modified several times. First of all,

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only foreigners who were not currently in Spain could take part in this scheme, and the selection of workers was carried out in the country of origin. Second, the redesign included the participation of new actors, among them local governments, business sector and trade unions.

In the past few years, the new quota system has been combined with other new initiatives directed at regulating migratory flows in accordance with the specific needs of the labour market. The new measures have included creating the Special Catalogue of Vacant Jobs, developed by Spanish employment agencies with the participation of regional governments, the appearance of job-seeking visas, and the regulation of seasonal or campaign work permits which are valid for nine months. In order to start recruiting workers in their countries of origin, since 2001 a series of bilateral agreements were negotiated with Latin American, European and African countries (Ferrero and López-Sala, 2009). Additionally, the labour market has begun to be monitored more closely by increasing the number of work inspections.

In 2007, the Unidad de Grandes Empresas (UGE) (The Large Enterprise Office) was created, to manage the flows of highly skilled workers. This is an office of the Ministry of Labour and Immigration which handles work authorizations and residence permits for highly skilled workers such as business executives, tech workers, scientists, university professors or internationally renowned artists who will provide transnational services as paid employees for economic, social, labour and cultural reasons.

Institutional and Legal Framework for Admission and Employment

There are two main legal ways of entry in the Spanish labour market: through the worker quota system and through the general regime system.

Worker quota system

This mechanism was originally designed to manage flows by recruiting foreign workers in accordance with the needs of the Spanish labour market from their country of origin. This system is used to guarantee that job openings were not left vacant when they could not be filled by the native workers, workers from EU/EEA countries or other foreigners legally residing in Spain.

The changes introduced in 2006 to the quota policy were the ability to modify the number of available jobs throughout the year, to process only stable job offers (contracts lasting at least one year) and the creation of job-seeking visas, which include two categories: visas for the children or grandchildren of Spanish citizens and visas provided to migrants specializing in areas where there is a serious shortage of workers. The number of job offers is being negotiated between the Spanish Government, the Autonomous Communities, as well as the Trade Unions and Entrepreneur Representatives which are all part of the so-called Tripartite Labour Commission of Immigration. The number of stable job offers is always provisional

and can be modified throughout the year depending of the needs of the labour market.

In 2007, which saw strong economic growth, 27,034 stable jobs were offered through the quota system, 455 visas for domestic work were issued and 500 job-search visas for children and grandchildren of Spanish citizens were granted. In 2008, as the growing economic crisis gradually became evident, the number of stable jobs was reduced to 15,731, a number that would be reduced by 90 per cent in 2009, when the quota shrank to a mere 901 job offers. For 2010 the offer was just of 168 stable vacancies mainly for engineers and medical doctors.

Seasonal Workers

Seasonal workers are hired for no more than nine months in a year. These workers are only subject to the demand of entrepreneurs, and not to a labour market test. Seasonal work is included in the worker quota system.

This kind of access to the labour market gives preference to countries having bilateral agreements with Spain in force. Between 2004 and 2009 Spain has signed agreements of varying scope with the Philippines, Senegal, Ukraine and Mexico and is on the verge of signing new agreements with Paraguay, Bolivia and Moldova. Other agreements had already been signed during the prior decade with various Latin American countries, such as Columbia and Ecuador, and African countries, such as Morocco. Given that all these agreements are closely tied to the quota system, we can state that in light of the low number of job offers approved in 2009, at the moment the latest agreements are merely symbolic, but that they pave the way for an efficient recruitment system in these countries of origin when economic conditions once again improve (Ferrero-Turrión and López-Sala, 2009). In 2007, 64,716 out of 70,444 seasonal workers were recruited through the quota system; in 2008, 47,180 out of 48,693 and in 2009, and 4,412 out of 4,429.

General Regime

The main way of entry into the labour market system is the general regime. It is different from the worker quota system for two key reasons:

- Applications for residence and work permits are always nominative.
- Working permit holders can work as employees and as autonomous workers.

In the general regime, applications for residence and work are evaluated on an individual basis following objective criteria such as market tests.

In the Immigration Regulations of 2005 a new recruitment system was incorporated in the general regime, the so-called Special Catalogue of Vacant Jobs. This system became operational in July 2005. In this Catalogue all those vacancies are listed that cannot be filled either by the Spaniards, EU/EEA nationals or third-country nationals with a valid work permit.

The Catalogue is elaborated by Public Labour Services and is approved and renewed every three months. It is disaggregated territorially by province, island in the cases of the Balearic and the Canary Islands and the autonomous cities of Ceuta and Melilla. This system speeds up the General Regime process, because it avoids the need to publish job offers by the employer. The presence of a vacancy in the Catalogue implies that the employer should manage the residence and work permit of the foreign worker.

Reform of the Immigration Legislation

The latest reform of the Immigration Law³⁴⁸ took place in December 2009. The amendments allow the spouse and children older than 16 years who entered Spain through family reunification to have access to the labour market upon their arrival without a market test in order to decrease the economic dependence on the sponsor. There is also a new provision on the specific protection status for the victims of domestic violence that recognises provisional measures for residence permits and access to work during the corresponding legal procedures, as well as the obligation to suspend any repatriation process over this procedure and access to a residence permit if finally the applicant is accredited as a victim.

Other modifications to the Law are focused on skilled workers and include a new residence and work permit for highly skilled workers (Blue Card) and a new statute for researchers.

Besides, all the existing permits will be better managed due to another reform concerning new competences for the Autonomous Communities for the expedition of permits.

The last reform of Immigration Regulations took place in July 2009 and was aimed at changing some aspects of renewal and modification of residence and work permits of foreigners to increase their mobility and thus combat unemployment. In particular, it is possible now to modify permits without geographical and sector restrictions as well as to change the type of work permit from self-employment to a contract permit and vice-versa.

In this sense, this last modification will facilitate the renewal of the residence permits for those workers that can prove continued employment (nine months in a year), and for those that have a family network that facilitates their permanence in the country, in case they cannot show a work contract in order to renew their permit.

The termination of a work contract is not an automatic reason for revoking the renewal of a work or residence permit. Elements such the lengths of residence or the workers' social security history are also taken into consideration.

³⁴⁸ Law 2/2009 of December, 11, reforming the Law 4/2000 of January, 11, on Rights and Freedoms of Foreigners and their social integration in Spain (*Ley Orgánica 2/2009, de 11 de diciembre, de reforma de la Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social*).

Institutional and Policy Framework for Integration

Local and regional authorities (LRAs) have played an important role in terms of labour market integration. Although labour markets management is a national competence, LRAs have implemented different instruments related to the labour force. Firstly, the Catalan government has acquired a new power: to grant labour permit to foreign workers, according to the needs of the Spanish and Catalan labour market. Secondly, municipalities and regional governments have implemented different actions to promote further integration of migrants in all social dimensions, also including the labour market, through the knowledge of languages, training courses and similar. In addition, some LRAs provide services to foreign workers based on their territories and manage pilot initiatives to hire seasonal workers in countries of origin.

Regarding instruments to promote in-depth integration in the workplace, measures to adjust to the language and professional demands of the labour market are weak, and further efforts should be undertaken in this particular area, especially in the context of economic crisis.

Trade unions have played an important role in promoting labour market integration, mainly through information and labour rights protection. Through a national network of contact points, the principal Spanish trade unions (CCOO and UGT) have established different programmes and mechanisms to facilitate the participation of migrant workers in the labour market, to inform them about their labour rights and to defend migrants if any of these rights are violated.

Discrimination in Employment

Migrants in Spain have the same rights and obligations as the native population. These rights have been expanded with the last immigration reform in 2009 that included in its new text the wording of the Constitutional Court which deals with fundamental rights such as right to association, reunion, demonstration, syndication and strike for all foreigners, both for legal residents and irregular migrants (STC 236/2007 and following).

In 2006, the Observatory of Racism and Xenophobia started its operations. Its tasks include research and analysis on the fight against racism and xenophobia. This Observatory was originally a transposition of the EU Directive on Equal Treatment of 2000. The creation of the Council for Equal Treatment, compulsory for all Member States it is still on hold.

In 2008, the Ministry of Equality was established to promote anti-discrimination measures and policies related to equality. In December 2008, a National Plan on Human Rights was approved that included the improvement of the social integration of migrants as well as the combat of discrimination, however with no specific budgetary allocations occurred for these purposes.

The principal Spanish trade unions (CCOO and UGT) have established legal advisory services on migration issues that were especially adapted to cater to migrant workers in order to protect their labour rights.

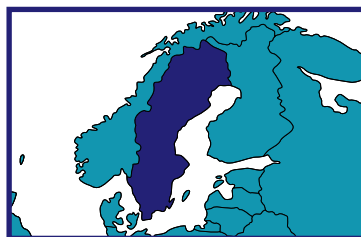
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SWEDEN

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Institutional and Policy Framework for Admission and Employment

The most important actors on the national level when it comes to policymaking in the fields of migration and integration are several Government ministries and the Migration Board. The Ministry of Justice is responsible for different areas of migration and asylum policies. The Ministry of Integration and Gender Equality is responsible for policy areas concerning citizenship, discrimination issues, integration, urban development and national minorities. The Migration Board enforces policies on visa, asylum, residence permits, citizenship and return migration.

There are possibilities for both highly and low-skilled migrants to come to Sweden for work through legal channels, but the system has been fairly regulated and not very flexible until recently. Before 2008, an employer who had the intent of hiring a third-country national had to report the vacant position to the County Labour Board. A third-country national could get a work permit if the Migration Board that consults the National Labour Board and the trade union in question, decided that there was a need. The National Labour Board conducted a labour market test to make sure that there was a need for foreign labour. The employer also had to guarantee that the foreign worker was paid properly, had accommodation, and was covered by insurance, as well as that other terms of employment were fair and in line with the collective agreement. The Migration Board and the County Labour boards have the main responsibility for matching supply and demand in the labour market (Johnsson, 2008).

However, the system for admission of migrant workers became more flexible in 2008 and is now employer-driven to the extent that it is the employer and not the

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authorities that takes a decision on recruiting foreign labour. Access to permanent residency was also facilitated, as a temporary permit can be upgraded to a permanent one after four years of residence. The employer still has to guarantee that the rules of the Swedish labour market are followed. Citizens of the EU/EEA and Switzerland have priority in access to jobs. Foreign students and asylum-seekers whose application has been rejected have the possibility of seeking a work permit in Sweden (Government of Sweden, 2007/08). Migrants that find a job have the right to change their permit, industry and job after less than a year. All migrants that have a residence permit have the right to work, including family members.

Family members can apply for a residence permit in their own right after three years. They also have the same rights as their sponsor to education, healthcare and housing. As the new policies on labour migration were made more flexible in 2008, gender concerns were brought into the analysis since the former labour market regime tended to exclude occupations traditionally employing women (OSCE, 2009). The new government also introduced a tax-reduction on domestic work. The tax reduction is 50 per cent of the labour cost up to an amount of 50,000 SEK (Government of Sweden, 2008/09). This may have effects on the regularization of employment of some migrant workers.

Institutional and Policy Framework for Integration

The Ministry of Integration and Gender Equality is responsible for policy areas concerning citizenship, discrimination issues, integration, urban development and national minorities. The regional level has been strengthened when it comes to migration and integration issues since the Integration Board was closed in 2007. The Integration Board supervised the development of integration issues and some of these responsibilities were moved to the County Administrative Boards. They have the operative responsibility now when it comes to negotiations with municipalities on the settlement of refugees.

The municipalities have had the operative responsibility for the introduction of newly arrived migrants in Sweden since the 1980s and they have been compensated financially by the state. The introduction programmes include language education, information about Swedish society and labour market training. In practice the municipalities have to arrange introduction programmes for some categories of newly arrived immigrants (migrants with a residence permit on refugee or humanitarian grounds). Other migrants are not entitled to enter an introduction programme, but in some municipalities all migrants are welcome. All migrants are entitled to Swedish language courses.

The employment agencies have the responsibility of disseminating information about the Swedish labour market and to cooperate with the municipalities in the introduction programmes. The level of cooperation with the employment agencies varies to a great extent depending on the municipality. Non-profit organizations play a somewhat limited role (Emilsson, 2008).

The introduction programmes have frequently been a target of different forms of critique. It has been argued in different reports and evaluations that the programmes

lack, among other elements, effective measures to prepare migrants to enter the labour market and that the cooperation between different authorities should be better. Education programmes in the Swedish language have been criticized for not being efficient enough, and that too many migrants drop out or achieve results that are poor (Emilsson, 2008).

The number of students enrolled in Swedish language for migrants courses (SFI) has increased during the last years. Today 84,300 persons are enrolled in these programmes. In the year 2008/09 only 63 per cent of students had managed to pass at least one course. About one fourth had dropped out. In general, a student spends 450 hours to pass an SFI but there is a great variance between students depending on education and other background variables (Skolverket, 2010).

Active Labour Market Measures

In March 2010, a new reform was launched in order to speed up the labour market integration of new migrants (Government of Sweden, 2009). A general guideline for this policy change is to increase the incentives to work and to take part in different measures to make the individual more employable. The main components of this new policy are that the Public Employment Service, and not the municipalities, will have the responsibility for coordinating the measures for getting migrants into employment. This means that according to the law every newly arrived person gets his or her own plan on how to get established in the labour market. The activities of the plan are Swedish language courses, a societal orientation programme and measures for labour market insertion. The reform will come into effect in December 2010 and includes refugees, other persons in need of protection and their relatives.

Persons that are part of these programmes will have the same compensation regardless of their place of residence, and will also get the support of a coach. The results of the Joonä & Nekbys (2009) evaluation of this new system's pilot projects concluded that comparatively more persons got a real job after these activities, but that the time they spent before getting a job was not shortened. More persons partook in different forms of labour market education and the time spent before a person partook in such a programme was decreased.

There exists also a programme of subsidized employment for newly arrived immigrants that is connected to their participation in Swedish language courses. This employment can last a maximum of 24 months and the compensation to the employer is 75 per cent.

Measures are also taken to increase the possibility for migrants to get their skills recognized and complement them with different forms of higher education in order for the individual to be able to practice his or her old profession in Sweden. Different measures have been undertaken during the past ten years to increase the possibilities for migrants to validate their home country educations but research (Dahlstedt, 2009) shows that it is not only the formal procedures that are decisive. Employers differentiate between different kinds of education and if a person is educated in Sweden he or she is more likely to get a job. Furthermore, when it comes to foreign education, it is easier for a person who has a vocational education to get employed. New measures are also

being taken in order to make it possible for newly arrived immigrants to move to municipalities where the job opportunities are frequent.

Qualitative sources suggest that refugees have very different experiences related to the labour market and the institutions that are responsible for reception and integration depending on their age and gender, type of education, placement in Sweden, time of arrival, and other factors (Frykman, 2009; Rönqvist, 2009; Wikström, 2009). Interviews in the abovementioned studies show that the refugees are grateful for the opportunity of starting a new life in Sweden. However, they are also somewhat critical towards the tendency of authorities and institutions to make decisions and policies without recognizing the perspectives and needs of the refugees in question.

These studies suggest that different actors in the area of reception and integration of refugees need to be more sensitive to migrants at the receiving end in order to make the measures more efficient and to increase the role of the individual in the integration process.

Discrimination in Employment

In 1994, Sweden introduced its first law (Law 1994: 134) against ethnic discrimination in working life. This law was tightened in 1999 and it decrees that employers take active measures against discrimination leading to an increased awareness among them on the importance of the issue. In 2009, one law (Law 2008: 567) against discrimination replaced the seven laws that prohibited different forms of discrimination and there will from now on be a single ombudsman against discrimination. This law aims to combat discrimination and promote equal rights and possibilities regardless of gender, transgender identity, ethnicity, religion or belief, ability, sexual orientation or age.

The new legislation and the demands for active measures against discrimination have put some pressure on organizations to reassess their personnel policies and how their recruitment processes works. Now it is common for organizations, especially in the public sector, to have policies and plans that cover the issue of diversity and integration and on how these issues can be promoted. These policies often state that the organization in question should aim to increase the number of migrants on different levels and that the organization has to combat discrimination and harassment. What effects these policy changes will bring remains to be seen and so far evidence suggests that the awareness is growing slowly and in an incremental way (Rönqvist, 2008).

Despite these measures, there is some evidence that leaders in labour organizations generally consider discrimination issues to be of minor importance (see for example Fackförbundet ST, 2006). Furthermore, the legislation does not really combat more indirect forms of labour discrimination such as network-based recruitment (Höglund, 2008).

In a study of employment integration of adopted children of Swedish parents, Rooth (2001) found adopted adults who looked “non-Swedish” had lower probabilities of obtaining employment than those who looked “Swedish”. Strong indicators of ethnic discrimination for migrant residents from the Middle East, in the hiring process and earning scale in Sweden are also established through various studies using field experiments such as correspondence tests (Bursell, 2007; Arai & Skogman Thoursie, 2007; Carlsson & Rooth,

2006; Carlsson & Rooth 2008; Arai, Bursell & Nekby, 2008). With respect to the ILO scale of discrimination, Carlsson & Rooth (2006) indicate a net discrimination of 29.4 per cent against applicants with Arabic-sounding names. Carlsson & Rooth (2008) find for example a lower statistical margin for discrimination at 23 per cent of total discrimination based on uncertainty towards the value of immigrants' foreign qualifications.

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TURKEY

Yelda Devlet³⁵⁰



In the Turkish context, labour migration and integration are both still predominantly discussed from the perspective of the integration of Turkish migrant workers abroad. Foreigners in Turkey are rarely discussed either in economic, social, or cultural terms. In Turkey's public discourse foreigners are usually perceived as tourists or, more recently, as retired foreigners who have decided to settle in the Mediterranean regions of Turkey. The presentation of foreigners and foreign labour in the media is highly biased and is dominated by stereotypes that strengthen the perceived link between foreign labour, crime and the informal economy. Only rarely are references made to legal foreign labour in Turkey, despite its increase in recent years.

Official data on foreigners and migrant workers in particular is extremely limited, although there is growing awareness of the issue among public authorities. Official integration policies are virtually non-existent, except for legal provisions regarding the status of foreigners in the scope of marriage and work/residence permits. Only very recently some attempts on the municipal level have been made to introduce wider socio-cultural and economic measures for the integration of migrant workers.

Institutional and Policy Framework for Admission and Employment

The Government of Turkey has expressed its commitment to undertake legal reforms in the framework of the EU accession negotiations in the 2008 National Programme of Turkey for the Adoption of the EU Acquis, Turkey's Programme for Alignment with the Acquis accepted in 2007, the 2003 Strategy Paper on Asylum and Migration and the 2005 Asylum and Migration National Action Plan. In order to

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develop the necessary legislation, the Bureau on Development and Implementation of Legislation on Asylum and Immigration and Administrative Capacity, subsidiary to the Undersecretary of the Ministry of Interior, was established on 15 October 2008. The Bureau is currently drafting the Asylum Law, the Law on Foreigners, the Framework Law on Counter-Trafficking and the Law on the establishment of a new body that will be responsible for managing migration on the national level. The aforementioned national initiatives will not only aim to harmonize the Turkish legislation with the EU *acquis*, but will also enable the creation of a more effective migration policy framework by consolidating the currently scattered provisions pertaining to migration.

The current immigration regime differs for various admission categories, such as migrants, asylum seekers and refugees.

The Department of Foreigners, Border and Asylum of the Directorate General of Security is the national entity in charge of issuing residence permits. Residence permits are issued for the duration of stay exceeding one month, and their validity is limited to five years, which can be extended or shortened by the relevant authorities.

The Ministry of Labour and Social Security issues work permits. Applications for residence and work permits, as a principle, should be made through the Turkish consulates abroad. However, any foreigner who has already obtained a six-month valid permit for residence in Turkey can also apply to the Ministry of Labour and Social Security for a work permit.

Non-nationals with work permits are to be treated under equal conditions with Turkish citizens. Unless otherwise provided by bilateral or multilateral agreement, foreigners who wish to work in Turkey should apply for work permit in a Turkish consulate abroad, obtain an employment visa at the consulate, and subsequently arrive in Turkey to obtain a residence permit for employment purposes from the national police authority.

Work permits in Turkey are not issued directly to the foreigner, but to the employer. Furthermore, issuance of a work permit is subject to a labour market test to determine whether a Turkish national can fill the vacancy. This provision to some extent facilitates informal employment of many low-skilled migrants.

In 2003, Turkey ratified the Law on Work Permits for Foreigners, which liberalized access of foreigners to certain occupations, which were open previously only to Turkish nationals. However, certain jobs are prohibited by law for aliens, with the regulations being set by Law No. 4817, and complemented by the Law on the Implementation of the Law on Work Permits for Aliens.³⁵¹ Another development in this field was abolishing the Law No. 2007 on the Arts and Services Exclusive to Turkish Citizens.³⁵² The Article 35 of the Law No. 2007 prohibited aliens from providing services in Turkey in specific areas.

Further restrictions to access the Turkish labour market remain for foreigners. Aliens are prohibited from engaging in activities as specified by the following laws: Law

³⁵¹ Official Journal No. 25214 of 29 August 2003.

³⁵² Law No. 2007 Regarding the Arts and Services Exclusive to Turkish Citizens of 11 June 1932.

No. 1219 prohibits foreign doctors from providing medical services in Turkey; Law No. 815 prohibits them from fishing commercially in Turkish waters; the Civil Aviation Law No.2920 prohibits them from carrying air passengers or goods within the Turkish airspace between two domestic destinations; Mining Law No. 3213 prohibits them from mining; the Trade Union Code No. 2821 prohibits them from acting as a founding member of a syndicate; the Customs Code No. 4458 prohibits them from being employed as a customs consultant; the Judges and Prosecutors Code prohibits them from being employed as a judge or prosecutor; the Lawyers Code No.1136 prohibits foreigners from being employed as a lawyer; and the Public Notary Code No. 1512 prohibits aliens from working as a public notary.

A long-term residence permit is granted to a foreigner married to a Turkish citizen as long as the matrimonial union is maintained. Turkish Citizenship Law (No. 403 adopted on 11.02.1964) provides certain mechanisms for facilitating the procedure for the naturalization of foreigners married to a Turkish citizen. Foreign nationals who have been married and living for at least three years with a Turkish citizen may obtain Turkish citizenship by applying to the provincial directorate of Turkish Missions abroad. To process such an application the Ministry of the Interior will conduct an investigation. However, the person concerned shall obtain Turkish citizenship automatically if he/she loses their own citizenship due to the marriage.

Spouses and the children of foreigners who possess valid residence permits are eligible for applying for residence permits in Turkey. According to Article 5.4 of the Law No. 4817 on Work Permits for Aliens (adopted on 27.02.2003), the spouse and dependent children of any foreigner having come to Turkey for employment purposes, who have themselves accompanied the latter or have been brought by the latter later on, may be granted a restricted work permit, under the condition that they have previously resided with the foreigner legally and uninterruptedly for at least five years.

Foreign students may receive residence permits for the duration of their studies after being admitted to an educational institution, and upon submitting relevant documentation to the provincial authorities.

Turkey maintains geographical limitation to its obligations under the 1951 Convention on the Status of Refugees according to which it grants access to asylum procedures only to European refugees and asylum-seekers.

Institutional and Policy Framework for Integration

There is no well founded official policy on the socio-cultural integration of foreigners. However, the necessary integration programmes are currently being considered as part of national efforts so as to ensure that a foreigner entering Turkey to claim international protection has sufficient means to maintain him or herself and bring added value both socially and culturally.

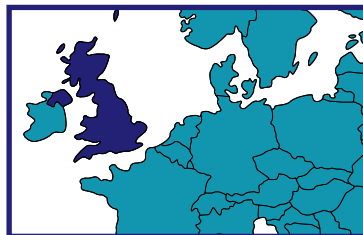
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UNITED KINGDOM

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Institutional and Policy Framework for Admission and Employment

Migration from EU/EEA

EU/EEA migrants are free to come to live and work in the UK with their families (with some limitations, discussed below).³⁵⁴ Family members who are not EU/EEA citizens must apply for an EU/EEA family permit before coming to live in the UK permanently, and will be issued with a residence card confirming their right to live in Britain.³⁵⁵

Migrants from EU15 countries can live and work in the UK without restrictions but must (along with all newly arrived foreign workers) apply for a national insurance number in order to pay tax and receive work-related benefits. This process takes place through JobCentre Plus and is free. EU workers do not require a national insurance number in order to seek or gain employment, but must obtain one as soon as possible thereafter.

Migrants from the EU8 who wish to seek employment in the UK must register with the Worker Registration Scheme (WRS),³⁵⁶ except for the self-employed. WRS registration is not required to seek or gain employment, but must be completed as soon as employment is secured. The fee for the WRS is 90 GBP, and need not be

³⁵³ Sarah Mulley is Senior Research Fellow at the Institute for Public Policy Research (ippr), London. This report was written, in large part, before the UK's recent election and change of government, so refers largely to the pre-election policy framework.

³⁵⁴ Family is defined as spouse/civil partner, children, parents and grandparents, and extended family members who are dependent on the EU citizen (except for students).

³⁵⁵ More information about migration to the UK within the EU is at <http://www.ukba.homeoffice.gov.uk/eucitizens/>

³⁵⁶ See <http://www.ukba.homeoffice.gov.uk/workingintheuk/eea/wrs/> for more details

re-paid if the worker changed jobs. Very few WRS applications are turned down, and there is little evidence that this registration requirement significantly restricts access to the labour market. After 12 months of continuous employment in the UK workers from the EU8 no longer require WRS registration, and can work on the same terms as workers from EU15 countries. The WRS will be ended in 2011, after which EU8 nationals will have the same rights to live and work in the UK as EU15 nationals.

Migrants from Bulgaria and Romania may live in the UK, but face significant restrictions on their ability to work. They can be self-employed, but in order to gain employment they must apply through immigration schemes such as the Points Based System (see below). In addition, the government has given Bulgarian and Romanian nationals exclusive access to the Seasonal Agricultural Workers Scheme (SAWS).³⁵⁷ This scheme (previously open to a wider range of migrants) provides opportunities for up to 21,250 workers a year to come to the UK to carry out low-skilled and short-term (up to 6 months) agricultural work.

The restriction of the SAWS scheme to nationals of Bulgaria and Romania has caused some controversy – agricultural employers have found it increasingly difficult to find labour in recent years (particularly as new migration from the EU8 countries has declined), and the SAWS quota has not been met. The Government is coming under some pressure to open access to SAWS to migrants from outside the EU, or to integrate it into an opening of Tier 3 in the PointsBased System (see below).

Migration from Outside the EU/EEA Area for Work and Study

The main change in the management of non-EU/EEA economic migration in the last few years has involved the dismantling of more than 80 previous routes of entry, and replacing them (in 2008-2010) with just five, under the PointsBased System (PBS).³⁵⁸

- Tier 1 – highly skilled workers, no job offer required
- Tier 2 – skilled workers with a job offer
- Tier 3 – temporary entry for low skilled workers, (currently closed)
- Tier 4 – students
- Tier 5 – temporary entry not primarily for work (for example, for training, youth exchange programmes)

Tiers 1 and 2 of the PBS are the most responsive to changing labour market conditions, as they are the ‘points based’ parts of the system, whereby potential migrants are granted points based on their characteristics, such as education, age and skills. Government can adjust the points criteria or requirements up or down to change the

³⁵⁷ See <http://www.ukba.homeoffice.gov.uk/workingintheuk/eea/saws/> for more information

³⁵⁸ The main predecessor routes were work permits, which have been replaced by Tier 2, and the pointbased Highly Skilled Migrant Programme (HSMP), which has been replaced by Tier 1. The HSMP was somewhat more restrictive than the new Tier 1, while Tier 2 is more restrictive than the work permits regime it replaced. The result is that there has been a shift of migration from work permits (in the old system) to Tier 1 (in the new system). See <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/> for more information about the Points-Based System.

numbers of people eligible to migrate. Both tiers allow migrants to bring dependents with them (spouses/civil partners and children) and require migrants to demonstrate competence in English, and funds to maintain themselves and their dependents.

Tier 1 relies solely on a points based assessment of the characteristics of the individual applicant (such as education, earnings). Successful applicants can enter the UK with full permission to work for up to two years, and can work in any job, sector or occupation. This can then be extended to a further three years if they can demonstrate that they are in high-skilled employment. Tier 1 migrants are then eligible for settlement/citizenship.

Tier 2 is still for highly skilled workers, but is employer-led, with an employer having the responsibility of being the migrant's sponsor. Tier 2 has three main 'routes of entry':

- a general route based on a 'resident labour market test';
- a shortage list route based on occupations suffering national labour/skills shortages,³⁵⁹ and
- an intra-company transfer route.

Students who have studied in the UK can stay on to work in a highly skilled job without their employer meeting the resident labour market test. Leave to enter is given for three years, and can then be extended for a further two years, but the applicant must meet the points requirements in place at the time of extension.

The shortage list route means that an employer does not need to meet the resident labour market test, so can recruit directly from outside the EEA. It applies when a skill is assessed to be in shortage in the UK, and as being capable of 'sensibly' being filled through migration. This assessment is undertaken by the Migration Advisory Committee (MAC) an independent group of economists, recruited by and working for the Home Office. So far, the government has always accepted their advice.

Tier 2 migrants are free to take on supplementary work outside their sponsored role (up to 20 hours a week), and can also change jobs as long as they meet the points requirements of their new job.

Tier 3 has been closed indefinitely since the introduction of the PBS, which means that there are no legal routes for low-skilled migration to the UK from outside the EU/EEA for work. The government currently assesses that there is sufficient low-skilled labour available within the EU/EEA, although this situation may change as migration from the new EU Member States declines. There is also pressure on the government from some sectors (such as ethnic restaurants) who find it difficult to recruit in the UK but also often fail to meet the points requirements of Tiers 1 and 2.

Students coming to the UK under Tier 4 can work up to a maximum of 20 hours a week during term time, and full-time during vacations. The high volumes of student migration in recent years mean that this group constitutes a significant source of (skilled and unskilled) labour.

³⁵⁹ The latest shortage list is available at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/third-review-lists/>

The process of establishing the PBS continued through the recession, with no major changes made to the overarching framework. The government has, however, made it more difficult for non-EEA migrants to enter the UK. In March 2009, the minimum salary level and qualification level were raised for Tier 1, reducing the numbers of highly skilled migrants who are eligible. For Tier 2, more rules have progressively been placed on the advertising of jobs domestically prior to opening them up to the international labour market. Also, the number of skills being assessed as being in shortage has dropped during recession. Lastly, the government has also strengthened arrangements for building the domestic skills base to reduce the need for labour migration, and the UK Commission on Employment and Skills is working with the MAC and other agencies in this area. Parallel reforms to welfare, childcare and other relevant areas are intended to also boost British nationals' ability to enter the labour market, further reducing the need for labour migration.

Other actions have also been undertaken to try to ensure the integrity of migration rules. Sponsors of migrants coming through the points based system are now more regulated, and many colleges have had their right to sponsor students revoked (the number of approved falling from 4,000 to 1,800 since the introduction of the PBS for Tier 4 in 2008). Indeed, the government has temporarily shut down applications for entry through Tier 4 from some parts of China and South Asia as extensive abuse of the student migration system was suspected.

- Concerns about the system from employers have fallen into three categories:
- Points assessments
- Administrative demands of applications
- Uncertainty and changing rules

The Government have been fairly responsive to the first two concerns – for example by reducing the minimum education requirement from a masters to a bachelors degree for those with very high salaries; and creating different categories of sponsorship to simplify the process for trusted employers who make numerous applications. The third concern will perhaps be the most significant in the future. The design of the PBS makes it politically tempting for ministers to constantly change the rules in response to changing economic or political times, to demonstrate that they are in control of immigration. In fact, the PBS should be “self-correcting” with respect to changing economic conditions (via the resident labour market test and the shortage list), and it is important that, once the system is established, the rules remain consistent. Too much change in the rules will make it hard for employers to plan ahead, for migrants to integrate and settle, and may put off the highly-skilled migrants that the UK wants to attract.

Other Entry Channels

Migrants who enter the UK for family reunification and formation have full access to the labour market.³⁶⁰

³⁶⁰ For an analysis of the labour market impact of PBS dependents see <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/pbsanalysis-09/>

Refugees have full and unrestricted access to the labour market, as do asylum applicants granted indefinite leave to remain in the UK. Controversially, asylum-seekers are not allowed to work in the UK, and also have very limited access to public funds. This has led both to destitution and poverty, and to irregular work.

Institutional and Policy Framework for Integration

There is limited support for guest worker programmes in the UK, and the emphasis of policy has been on integration and community cohesion. The key policy instrument for encouraging greater integration is now the UK's new pathway to 'earned citizenship'. Under the proposals contained in the Borders, Citizenship and Immigration Act 2009 there will be three stages to citizenship:

Temporary resident (at least 3 years, depending on immigration status, maximum 8 years). This is a "qualification period" during which the migrant must hold qualifying immigration status. This period can be shortened by up to two years by taking part in voluntary community service.

Probationary citizen (minimum of 1 year). This is a further step on the way to citizenship, during which time migrants will have to meet further integration criteria, and will not be eligible for benefits.

British citizen. Once full citizenship is obtained, migrants can access all rights, services and benefits on the same basis as British-born citizens.

In proposing these changes the government made much of the fact that access to the full range of benefits would be dependent on migrants progressively moving into citizenship.

There are now proposals to strengthen this further through a points system. Extra points (and thus a faster pathway to citizenship) would be awarded for migrants for:

- Economic contributions
- High skills or qualifications
- 'Active citizenship' – for example, volunteering in the community
- English language proficiency

On the other hand, points could be removed and citizenship withheld or delayed for:

- Breaking the law
- Committing anti-social behaviour

At the moment, settlement and citizenship is focused strongly on integration, and does act as a disincentive for migrants to return home or move elsewhere for work during the qualifying period. This approach is increasingly out of step with the contemporary realities of migration, which are much more flexible and circular than they were in the past.

There are a myriad of initiatives to promote integration of migrants at the local level. The 70 million GBP Migration Impacts Fund, administered by the Department of Communities and Local Government was introduced in 2009, and is designed “to support communities in managing local pressures from migration.”³⁶¹ Projects funded through this fund include language training, translation, specific health/education/policing interventions for migrant communities, as well as wider support for public services felt to be under pressure as a result of migration. Some projects also provide support for migrants in the labour market. The fund is paid for by a levy on migrants (through visa fees) and is not accompanied by any equivalent funding streams to support migrant community groups, as happened in the past.

Outside government, there are a wide range of civil society groups working with migrants to support their integration, both into society and into the labour market. British Trade Unions have taken a positive and active approach to the issue of migration. They provide advice for migrant workers (see for example http://www.worksmart.org.uk/rights/migrant_workers) and also campaign for the rights of migrant workers in the labour market as well as for wider social and political acceptance of migration.

Active Labour Market Measures

In general, the UK’s policy approach to migrants in the labour market is one of equal treatment. Economically active EU/EEA migrants, as well as those from outside the EEA with permission to settle in the UK can generally access benefits and labour market support on the same basis as UK nationals. Overall, migrants claim benefits at similar rates, or slightly lower rates, than the UK-born population. There are very few labour market policies or programmes targeted specifically at migrants.

The centrepiece of active labour market policies since 1998 has been the New Deal programme, designed to provide intensive back-to-work support for people claiming a range of out-of-work benefits.

From October 2010, anyone who has been claiming the Jobseekers Allowance (JSA - the main unemployment benefit) for more than 12 months, or six months in the case of people aged 18 to 24, will have to enter the Flexible New Deal (FND)(this includes migrants who are eligible for JSA – see below).³⁶² FND is centred on the relationship between the individual and their “personal adviser” as the basis for designing a tailored package of support, rather than group-based programmes. FND will also focus on the sustainability of employment, reflecting growing concern about the kind of work benefit recipients tend to take on and a recognition of the limitations of a purely job placement focused service.

³⁶¹ DCLG notice March 2009 available at <http://www.communities.gov.uk/news/corporate/1180107>. Details of projects funded available at: <http://www.communities.gov.uk/communities/racecohesionfaith/asylumandimmigration/migrationimpactfund/>

³⁶² Note that this paper was written before the election of May 2010. It is not yet clear how the new Government will reform employment and welfare policies and programmes.

Table 1: Proportion of population claiming benefits by country of birth, 2008

	UK-born	Foreign-born	Foreign national
Unemployment	1%	1%	1%
Income support	3%	4%	2%
Sickness or disability	5%	4%	1%
State pension	8%	5%	2%
Family related	0%	0%	0%
Child benefit	13%	17%	9%
Housing benefits	5%	7%	3%
Tax credits	10%	12%	6%
Other	1%	1%	1%

Source: LFS and *ippr* calculations.

Nevertheless, spending on labour market programmes in the UK remains low. In 2007/08, the UK spent just 0.5 per cent of GDP on such programmes compared to the OECD average of 1.3 per cent (OECD, 2009). Within this smaller spending envelope, the UK spends a greater proportion of its resources on “active” measures, particularly job placement, whereas many other OECD countries focus a greater proportion of expenditure on out-of-work benefits, training programmes and recruitment subsidies (OECD, 2009).

Skills and training programmes have become an increasingly important part of British labour market policy, although the UK retains a “work first” approach to employment support as opposed to training or a human capital approach. Workplace training for employees is provided through Train to Gain, with eligibility for funding largely dependent on an individual’s age and existing qualifications. Apprenticeships have also recently seen a revival in the UK, with some funding available for adults to undertake apprenticeship training in a range of sectors.

Two areas of skills policy are specifically relevant to migrants – the provision of English language training (English for Speakers of Other Languages, or ESOL), and recognition of qualifications from overseas. ESOL provision and funding in the UK has expanded significantly in the last decade. In 2009, the last government unveiled a new approach to ESOL provision, which prioritized access to ESOL training for long-settled migrants.³⁶³

There is relatively little data or evidence on the access to/use of employment-supporting services and policies in the UK. In a 2008 study, Cangiano found that migrants from new EU countries were significantly more likely than the UK-born (or other migrants) to have found their current job through a Job Centre – he suggests that this reflects the success of Job Centres in matching new EU migrants with employers facing labour shortages in low-skilled jobs including agriculture and construction (Cangiano, 2008).

³⁶³ See A New Approach to English for Speakers of Other Languages, Department for Innovation, Universities and Skills, May 2009, available at: http://www.bis.gov.uk/assets/biscore/corporate/migratedD/publications/E/esol_new_approach

Most specific schemes and policies with respect to migrants in the UK labour market relate to asylum-seekers and refugees. At the national level, the last government took steps to support refugees to gain employment and succeed in the labour market, and identified refugees and migrants which had been granted exceptional leave to remain as priority groups in some employment programmes (for example through some Minority Ethnic Outreach Programmes).³⁶⁴

Discrimination in Employment

The Equality Act 2010, together with previously enacted equality legislation, provides all employees in the UK with protection from discrimination in the workplace on the grounds of age, gender, ethnicity, sexual orientation, transgender status, religious belief and disability.

Although legal protections are strong, in practice discrimination continues to be a reality for some groups. For example, a 2008 study on the employment and wage returns to education for different groups found that:

...some disadvantaged groups do not enjoy the returns to education that might be expected from their investment. Prejudice and discrimination in the labour market prevail, so that the most visible ethnic groups, for example, are thwarted in their life chances and quality of life.³⁶⁵

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³⁶⁴ E.g. see *Working to Rebuild Lives: A preliminary report towards a refugee employment strategy*, 2003, available at: <http://www.dwp.gov.uk/docs/main-rep.pdf>

³⁶⁵ Li, Devine and Heath (2008), p.70 (available at http://www.equalityhumanrights.com/uploaded_files/research/10_equality_group_inequalities_in_education_employment_and_earnings.pdf)

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The International Organization for Migration (IOM) two-volume study *Migration, Employment and Labour Market Integration Policies in the European Union* investigates evidence of the labour market impact of migration and the role of relevant migrant admission and employment policies in the European Union, as well as Croatia, Norway and Turkey.

Part 1: Migration and the Labour Markets in the European Union (2000-2009) analyzes data on labour market impacts of migration, explores labour market outcomes of migrants and identifies challenges and focus areas for national migrant integration policies.

Part 2: Labour Market Integration Policies in the European Union (2000-2009) provides a detailed analysis of national labour market integration policies in the region and their implementation where data is available. The analysis includes direct labour market integration measures, as well as relevant elements of selection and admission policies and their impact on labour market outcomes of migrants.

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