

Policy Department  
Economic and Scientific Policy

# ECONOMIC MIGRANT WORKERS

## Hearing

Brussels, 8 October 2007

This briefing note was requested by the European Parliament's Committee on Employment and Social Affairs.

Only published in English, French and German.

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EUROPEAN PARLIAMENT

**DG INTERNAL POLICIES OF THE UNION**

**Policy Department Economic and Scientific Policy**

**BRIEFING NOTE FOR THE HEARING ON  
ECONOMIC MIGRANT WORKERS**

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## **1. Is migration an answer to the Member States ageing problem and working-age population decline?**

Over the next few years EU countries will begin to experience – some of them have already done so – the first consequences of the falling birth rates both on the size and on the structure of the population. According to Eurostat, the Commission’s statistical office, by 2010 deaths in the EU 25<sup>1</sup> will outnumber births, leading to a ‘demographic deficit’. Over the next decades, the size of the European population – after two centuries of fast and continuous growth – is projected to decline even if net migration (i.e. the balance between in-migration and out-migration) will continue at the current levels. Beside the absolute numbers, the demographic structure of the EU population is rapidly changing. Smaller young generations and increased survival opportunities are the driving forces of a fast and irreversible (at least in the next half a century) ageing process. Even more pronounced will be the decline and ageing of the working age population (15-64). Over the next decades increasingly large cohorts will retire (the baby-boomers born in the 50s and 60s), outnumbering the young cohorts entering the working-age population. Currently in the EU-25, 67 per cent of the population are of working age, compared with 16 per cent who are 65 and over. By 2050, as a result of these trends, a working age population of 57 per cent will have to support 30 per cent aged 65 and over. In addition, the workforce will experience significant ageing as a result of the decreasing size of the cohorts of young workers paralleled by the numerical growth of the group 50-64. These demographic trends will not affect evenly all EU countries: some countries like Italy, Germany and most of the Central and Eastern European countries which recently joined the EU will experience even more pronounced population decline and ageing, while others (e.g. Ireland) will still experience a natural increase and moderate ageing.

In the past decade increasing attention has been paid to the possible impact of migration on the future demographic trends in ageing societies. In principle, beside the mere numerical contribution, migrant inflows have a rejuvenating effect of the structure of the host population because they tend to have younger age profiles than the average population. In addition, the settlement of migrant communities with (initially) higher fertility levels than the native population – which is the case for most migrant groups from Africa, Asia and Latin America – can raise the birth rate of the total population. Given the significant economic, political and social implications of the projected demographic trends, migration has been considered as a possible option to achieve two demographic goals: 1) to contrast the decline of the working age population; 2) to reduce the speed of the ageing process. Demographic analyses and projections looking at the possible impact of migration on future trends of the European populations suggest that:

- 1) For the time being immigration is (partly) compensating for this ‘demographic deficit’. For the period 2005-2010, only Germany, Italy, Spain, Greece, Portugal and the Czech Republic are expected to show a decrease (or a small increase) in the working-age population with no net migration. For some of these countries, over the past decade net migration has already compensated at least in part for what would have been a decline or a moderate increase in the working-age population. However, in the next decades current levels of net migration will no longer outweigh the decrease of the labour force in most EU Member States. It is estimated that, on current trends, by 2025 there will be a 20 million shortfall of workers across the EU. Only net migration flows significantly higher (about double) than nowadays could result in constant work force sizes.

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<sup>1</sup> Romania and Bulgaria had not joined the EU when the last Eurostat’s population projections were carried out.

- 2) The support ratio – i.e. the proportion of the population aged 15-64 over the elderly population – can only be maintained at the current level with implausibly high net migration flows<sup>2</sup>. This is because once migrants are settled then they tend to adopt the fertility patterns of the host population, they have children and get old. More immigrants are then needed to support them in their retirement and so it goes on.

Beyond purely demographic considerations, the impact that declining and ageing workforces will have on the demand for migrant workers is as yet unclear. The ageing and shrinking of the labour force is likely to occur in the presence of continuing demand for goods and services, from both the growing number of retired persons who will continue to consume, albeit at reduced levels because of lower retirement incomes, and from the rest of the world. Whether or not this will result in possible mismatches between demand and supply of labour heavily depends on how the labour market structures will adapt to these demographic shortages of young – and more flexible – workers. The extent to which immigration will be needed to fill-in the demographic gaps will depend on whether European labour markets will experience increased female labour force participation (particularly in Southern Europe, where women activity rates are still low), increases in the retirement age and gains in labour productivity (e.g. through technological progress and better education). In terms of age structure, a major challenge will come from the fact that the labour market will have to provide an increasing number of positions at a higher level of seniority in order to fulfil the expectation of career development of an ageing – and thus more experienced and more costly – work-force. Having said that, it is difficult to imagine that a Europe entirely closed to migration would not suffer from welfare losses.

Another challenge facing EU Member States is determining how to satisfy pension requirements among populations with increasing numbers of retired people and decreasing numbers of participants in the labour force. In addition to the (limited) effect of reducing the pace of ageing, inflows of young migrant workers can positively contribute to the sustainability of EU pension systems in the short-medium term because they initially contribute to the public coffers without receiving substantial pension benefits. However, immigration can not solve the EU pension problems in the long run, when the public pension systems will have to fulfil the financial obligations contracted with migrant workers.

Overall, immigration does not provide in itself a long-term solution to falling birth rates and ageing populations, but it is one of the available tools within a set of policies. It must not be neglected that migration is the only component of demographic change that can be influenced by policies to fulfil short-term demographic goals – fertility policies having an impact on the labour force only in the long run. This crucial difference in timing is often forgotten in the debates and is essential for policy planning. In the short to mid-term, labour immigration can positively contribute to tackling the potentially adverse effects of ongoing demographic trends and will prove crucial to satisfying current and future labour market needs and thus ensure economic sustainability and growth.

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<sup>2</sup> United Nations (2001), *Replacement Migration: Is It a Solution to Declining and Ageing Populations?*, Population Division Department of Economic and Social Affairs.

## **2. If so should member states focus on the high-skilled workers or a mix of them including the low-skilled?**

Highly skilled migration is generally politically popular. Many EU countries have established schemes to attract highly skilled migrant workers to fill in occupations in short of supply especially in the health and IT sectors. In contrast, there seems to be a belief amongst policymakers that with the move to an increasingly knowledge-based economy, the need for low-skilled workers will diminish. Even the European Commission's Policy Plan on Legal Migration, while acknowledging that Member States are experiencing substantial and increasing labour and skill shortages in the full range of qualifications, did not provide a comprehensive plan for migration policy embracing all skill levels, placing much more emphasis on attracting highly-skilled workers.

However, in reality, we have seen net growth over the past decade at both the high- and low-skill end of the labour market with significant increases in managerial, professional and technical jobs, but also a rising share of less well-paid personal services and sales occupations. This increased polarisation of the labour market can be explained by the fact that certain low-skilled low-paid jobs can be neither displaced by technology nor exported to places where labour is cheaper. While some low-skilled jobs are disappearing, there is a growing need for workers in so-called non-routine and non-tradable service sectors, such as healthcare, hospitality and personal services. Equally, while many low-skilled jobs, such as those in manufacturing, can be exported, others cannot – it is impossible to provide nursing care or cleaning services remotely<sup>3</sup>. In addition, without access to lesser-skilled workers Europe will be (even less) able to compete in the agricultural sector, which is nowadays highly internationalised. Surveys of vacancies carried out in many European countries clearly support this picture.

There are a number of good reasons suggesting that Europe, in order to cope with its present and future labour shortages at the bottom of the skills' spectrum, should devise effective policies to manage the inflows of low skilled migrant workers from outside the EU.

- Despite official calls to suppress the informal economy there is strong evidence that this has grown in recent years, and is indeed an unintended consequence of official measures to secure the flexibility of the labour markets. In parallel, Europe is experiencing the formation of large undocumented migrant populations working in low skilled jobs even in old immigration countries (like the UK or Germany) traditionally exempt from this problem. Governments are aware of this, but seem to find this situation preferable to setting up adequate legal migration channels – a policy that typically encounter strong political and public opposition.
- Globalization has been marked by growing inequalities. The past decades have witnessed an increasing concentration of the world income in the high-income countries paralleled by an increasing concentration of the world population in low-income countries. This inequality is a very powerful force driving migration. European countries should take the responsibility to open up legal channels of migration in ways that may be conducive to development of the South.

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<sup>3</sup> A recent study by the McKinsey Global Institute (2005) calculated that only 11 per cent of the world's service sector jobs can be performed remotely.



- Demographic shifts can also lead to social change. In the next decades, with the fall of the number and proportion of children in the European societies, we may well expect improving educational opportunities. Therefore, it is reasonable to assume that even less young locally-trained workers will be available for low-skilled jobs<sup>4</sup>.
- Public concern around the perception that low-skilled immigrants may cause unemployment or reduce wages seem to be contradicted by the empirical evidence. Most analyses of the empirical effects of immigration on labour markets has demonstrated that migrant workers are mainly complementary to the local labour force, and that their impact on wages and employment prospects is limited and generally limited to the short-term. There are also frequent concerns that low-skilled migrants place excessive demands on public services and are likely to be a drain on the benefits system. However, getting out of the informal labour market large numbers of immigrants – perhaps with low wages but working relatively long hours – would lead to an additional inland revenue offsetting the increasing demand for public support.
- One of the reasons why most states still reject the idea of legal entry provisions for lower-skilled non-EU workers is the belief that future labour needs can be met from the labour surpluses of the Accession States which joined the EU in 2004 and 2007 (Bulgaria and Romania). This was clearly stated by the British Home Office<sup>5</sup> after the UK – unlike all other EU countries except Sweden and Ireland – granted unrestricted access to the labour market for A8 workers without introducing any transition period. In this respect, lessons can be learnt from the UK experience. The UK has experienced massive inflows of migrant workers from these countries. However, there are reasons to believe that this additional labour supply will meet the need for low skilled workers of the UK economy only in the short-term. First, analysis carried out by the Department for Work and Pensions shows that a significant proportion of migrants return to their country of origin within a few months of entering the UK<sup>6</sup>. Second, it is likely that net flows over the long-term are likely to stabilise at a much lower rate as soon as economic conditions improve in the accession countries. In fact, the propensity to migrate to the UK was clearly correlated to the economic conditions in the accession states. Not only will this reduce the east-west migration flows, but the rate of return is also likely to rise<sup>7</sup>. In addition, demographic projections show that Eastern and Central European countries will experience dramatic population decline in the future, so their labour forces will hardly have any ‘demographic surplus’. Finally, Eastern Europeans migrating to the UK are relatively high skilled and currently undergo significant deskilling. Those settling in the UK are likely to experience upward mobility as soon as they acquire sufficient language skills and familiarise with the British labour market.
- The main alternative to low-skilled migration would be to improve the conditions and social status accorded to low-profile occupations, so that local workers might be more willing to take them; marginal employers might go out of business; and there would be incentives to improve productivity in these sectors through more investment in labour-saving technologies. However, ‘upgrading’ low-skilled work would require substantive policies reinforcing the labour market regulation and enforcing minimum wages and conditions.

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<sup>4</sup>Castles S. (2006), “Back to the Future? Can Europe meet its Labour Needs through Temporary Migration?”, International Migration Institute, Working Paper n. 1

<sup>5</sup> Home Office (2005) “Selective admission: making migration work for Britain”, Consultation Paper, London: Home Office.

<sup>6</sup> Portes J. and French S. (2005), “The impact of free movement of workers from Central and Eastern Europe on the UK labour market: early evidence”, DWP Working Paper 18, London: Department for Work and Pensions.

<sup>7</sup> IPPR (2005), “Selecting wisely. Making managed migration work for Britain”, submission to the Home Office consultation on ‘Selective Admission: Making Migration Work for Britain’.

Although desirable in terms of combating socio-economic inequalities, this type of policies is difficult to implement because they are faced by strong opposition from employers and decreasing influence of labour unions. Given the current trends towards increasingly liberal labour markets, large-scale effects seem quite unlikely.

In the long term, managing low-skilled migration effectively will be just as critical to the EU labour markets as managing highly skilled migration. On the one hand, increasingly knowledge-based economies characterised by expanding service sectors will need to attract highly skilled workers to foster technological progress and increase competitiveness on the international markets. On the other, European societies will have unskilled workforces quickly declining in the coming years, while demand for low-skilled workers in low-status services and low-productivity industries will likely remain high and possibly grow with increasing prosperity and demographic shortages of young workers. In the absence of legal channels for low-skilled migrants this labour demand is likely to remain unmet and foster undocumented migration and underground economies. In order to avoid entering this spiral, it is imperative that any new system for managing migration has substantial scope for expanding low-skilled migration from outside the EU to meet promptly the potential labour shortages. The economic and political arguments supporting this scenario are perhaps even stronger than those for managing highly skilled migration.

Finally, two points need to be made. First, the comprehensive management of the immigration and employment of migrant workers must take into account the various non-employment immigration channels that migrants may use to access the host country's labour market. The most important of these channels involve students, dependents and refugees. In many countries, the share of dependants in long-term immigration flows far exceeds that of workers. Dependants are a great source of potential labour supply and typically enjoy unrestricted access to the labour market in EU-member states. In countries like the UK international students are significantly increasing and are already a critical source of labour in certain industries (e.g. the hospitality sector). Their contribution to the labour market should be carefully monitored both while studying and as a possible future source of high-skilled work. In countries where immigration on humanitarian grounds is relatively high – although decreasing, like in the UK, the Netherlands or Sweden – recognised refugees should not be neglected as additional source of labour and skills.

Second, while there is a role for the EU in setting out some general guiding (and perhaps binding) principles for migration management, micro-management of admission for employment should remain a prerogative of national states. Given their very different economic situations and labour market structures, Member States need to retain the ability to respond flexibly and promptly to their labour market needs, which are unlikely to coincide across the EU. Rather, allowing local and provincial Governments to participate in the selection of migrants to be admitted in the different regions might be an attractive option as this would give responsibilities to those best able to understand the needs of the local communities.

### **3. Can the Australian or Canadian cases be taken as examples for the EU?**

Australia and Canada have long recruited immigrants for economic reasons and are more explicitly open to immigration than any European country. Their experience can be extremely instructive to refine European policies on labour migration.

Until recently Canada and Australia admitted virtually all their labour migrants granting them the right to reside permanently on their territory through a point system that selects people with high qualifications and other desirable individual characteristics. The two systems were strongly 'supply-based', meaning that the labour demand in the domestic labour markets was not a central aspect of their recruitment policy. Points were granted mainly on the basis of a mix of skills, work experience, education, age and other characteristics – e.g. family members already living in the host country or the skills of the partner – that presumably maximise the probability of both immediate and long-term labour market outcomes. Even if additional criteria were set out to create a labour supply in shortage occupations, the major goal of the programmes was more in general to maximise the probability of economic and social integration<sup>8</sup>.

For a long time the Australian and Canadian point-systems have been unarguably successful in economic and social terms. The education-based skills of these is high, translating into a considerably degree of employment success. The national celebration of cultural diversity seems to indicate an apparently smooth social integration of minorities within distinct communities and in the wider society. The programmes are also successful in political terms: especially in Canada there is relatively widespread public acceptance and support for immigration policy, and relatively little disputes in the political debate.

However, the worldwide economic and social transformations occurred in the past decades seriously challenged the suitability of the two systems to cope with changing labour market structures and the globalisation of migration flows. Especially in Canada, critical gaps have emerged between this skilled immigration emphasis and what actually happened in labour markets. Skilled immigrants often did not succeed in getting those professional and other highly-skilled jobs for which they were presumably qualified. As a result, pervasive under-utilization of the skills of highly-educated immigrants – 'brain waste' – is a serious issue in Canadian immigration. In addition, significant demand for skilled blue-collar workers and less-skilled migrants to meet labour shortfalls in various trades and other lower-level occupations was not satisfied by the emphasis on professional and other post-secondary education. As a consequence, increasing illegal immigration appeared, mainly unskilled workers who take jobs which reportedly go unfilled by native-born workers. Another problem is related to the administrative management of a growing number of applications. Since applications are not screened first by employers, the government bears the burden and cost of assessing them. The system is often slow to evaluate the foreign education credentials and work experience of new immigrants (especially in regulated professions like medicine) and to direct them toward employers who need their skills. In recent years the Canadian system has a backlog of more than 800,000 applications – more than 500,000 of which come from skilled workers – and waits of four years or more.

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<sup>8</sup> Papademetriou D. (2006) (ed.), *Europe and Its Immigrants in the 21st Century. A New Deal or a Continuing Dialogue of the Deaf?*, Migration Policy Institute and the Luso-American Foundation.

Despite the programme has been revised putting more emphasis on work experience and/or study in Canada, some employers, in response to these problems, are sidestepping the point system and relying instead on a program initiated in 1998 that allows provincial governments to hand-pick low-skill workers and trades workers on temporary foreign-worker permits<sup>9</sup>.

Facing similar challenges, in 1999 Australia considerably revised its immigration system changing the criteria of the point system and admitting a number of its economic migrants on a temporary basis in order to fill specific labour needs identified by the government. In redesigning its economic selection criteria for permanent migrants, the Australian government emphasised the importance of reducing skills wastage among recent arrivals. Applicants qualified in regulated fields have been required to apply for pre-migration screening by the relevant Australian national or state licensing bodies (typically a three month postal process) – a strategy designed to avoid years of forced labour market displacement due to non-recognition of skills. Given the existence of niche economies, priority processing and bonus points have been awarded to applicants qualified in high-demand fields. Recognising the importance of host country language ability, candidates have been required to achieve ‘vocational’ or higher level scores on the independently administered International English Language Testing System. International students have become strong economic program participants (52% of the total in 2005).

As established by the Census data analysis, economic migrants now perform indisputably better in Australia than in Canada. Far greater proportions of new arrivals secure positions fast, access professional or managerial status, earn high salaries, and use their credentials in work. Also, migrant immediate work outcomes strongly correlates to longer-term labour market integration rates. Positive employment gains were achieved by traditionally disadvantaged groups<sup>10</sup>. In terms of overall program impacts, it is essential to note that these post-1999 policy changes have not discouraged or distorted skilled flows to Australia.

Even if the formula adopted for managing migration has not been exempt from problems and these two countries are continuously redefining their policies, Europe can profitably learn from their experience to develop its framework for admitting economic immigrants. Depending on which selection factors are given priority, it is possible to imagine a range of diverse points systems: at one extreme, supply-based systems select migrants based on their individual characteristics; at the other, demand-based systems select migrants based on labour market needs in the host country.

There are undoubtedly some positive lessons that can be learned from the Australian and Canadian experiences. A points system has a number of advantages over other policies that grant permanent residence on a case-by-case basis: it is a transparent means of regulating labour immigration<sup>11</sup>; it is a relatively flexible tool for regulating admissions, as the selection criteria, and/or the scoring system, may be modified through administrative measures, enabling relatively fast responses to changes in local labour market conditions or other factors affecting labour migration policies; skill-selective immigration can be effective in promoting the economic integration of immigrants.

At the same time, points systems should not be viewed as a simple and straightforward “best practice” for managing permanent labour immigration. The design and effective implementation of a points system poses a number of challenges, including decisions regarding the optimal scoring method to be used to evaluate migrants’ applications.

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<sup>9</sup> Reitz J. (2004), “The Institutional Context of Immigration Policy and Immigrant Skill Utilization in Canada”, Institute for Research on Public Policy.

<sup>10</sup> Hawthorne (2006), *Labour Market Outcomes for Migrant Professionals: Canada and Australia Compared*, research report for Citizenship and Immigration Canada.

<sup>11</sup> Point tests are available online, enabling applicants to evaluate themselves based on a clear and known set of criteria.

In particular, foreign-acquired skills are not automatically transferable and the evaluation of migrant competences are often made through discretionary assumptions on the equivalence of degrees and qualifications across countries.

Given that the host country's labour market needs are only one of many possible selection criteria, there is also a risk that points systems that are too supply-based become disconnected from the host country's labour market needs, as demonstrated by the severe underutilization of immigrants' skills in the Canadian labour market. The Canadian experience suggests that, in order to align immigration with the economic demand for labour, demand considerations, such as the requirement to be able to fill certain occupations where there is a labour shortage, or to have a job offer in the host country, must play a significant role. It is worth to re-emphasize that a points system is designed to regulate the admission of migrants for long-term employment and residence only. Given the importance assigned to individual characteristics rather than to an offer of employment as the only factor determining eligibility (as is the case under most temporary labour immigration programmes), a points system is inherently unsuitable to regulate the selection and admission of migrant workers on a strictly temporary basis. Consequently, a points system is meant to complement rather than replace temporary employment permit programmes.

This emphasis on labour demand has been acknowledged by the new British point-system which is currently being implemented. In addition to personal attributes, points will be awarded if the applicant qualify for a job in a shortage occupation. 'Control factors' to prevent abuse of the system (over-staying and irregular employment) have been introduced as well – i.e. by making employers or educational institutions responsible for ensuring that migrants comply with the rules. The system provides only very restricted opportunities for low skilled workers. Whether it will succeed depends very much on whether EU Accession States are able to meet future demand for low-skilled labour – see previous paragraph.

Finally, two observations: first, economic integration does not guarantee social integration. In Canada, for example, discriminatory treatment of minorities is still a challenge. Second, transferability of migration policies should always be questioned given the importance of the context to which they are applied: different economic, social and historical settings as well as a country's labour market and welfare policies strongly influence the migrant socio-economic integration, and thus the outcomes of migration policies.

#### **4. What kind of economic status should be given to economic migrants (long-term, short term) and what impact these arrangements have on the integration of migrants?**

As a consequence of the increasing complexity of current population movements and labour market structures, an effective management of labour migration calls for a diversification of policies and programmes. As already stated in response to question 3, policies to regulate the inflows of permanent labour migrants must be seen as a complement rather than an alternative to temporary migration programmes. The desirable balance between the number of migrants admitted permanently and temporarily depends on a number of factors, namely the nature of the labour demand unmet by local workers – i.e. whether there are occupations in ‘chronic’ or temporary short of supply – and the degree of openness towards immigration of the Governments and the public<sup>12</sup>. The main instruments currently in place for managing permanent labour migration are the point-based systems, whose pros and cons have been discussed above. Therefore, in this paragraph the discussion focuses on two other major types of policies by which the inflows (and access to the labour market) of migrant workers can be regulated: the creation of free movement areas within which people may settle without restriction – particularly important in the context of the EU-enlargement – and the implementation of programmes for temporary labour migrants.

Until recently, freedom of movement had only marginal effects on migration flows as a whole within the EU-15. With the EU-enlargement towards the East and the South, many immigration countries of the EU, fearing the consequences of CEEC nationals flooding into their labour markets, chose to take up of the possibility offered by the treaty of membership of preserving restrictions on entry during a transition period. On 1<sup>st</sup> May 2004, only Ireland, the United Kingdom and Sweden opted to fully open up their labour markets. The available data show massive entries of migrants from the new member states into Ireland and the United Kingdom, while flows into Sweden remained relatively small.

In terms of effect on the labour market, eastern European workers have not taken the place of local workers but alleviated labour shortages in certain sectors. In economic terms, the influx has not caused wages to fall and the British economy has benefited in terms of competitiveness, productivity and growth. The overall efficiency of the labour market appears to have improved and illegal work has diminished. The outcome has been less clear-cut for the new Member States. Remittances from migrants have increased, but the outflow of often employed and well-educated workers has created pressures in some sectors. The Baltic States have faced severe shortages in the healthcare professions, where wage differences with EU15 countries were substantial and the prospects of finding work higher.

On the evidence of the last enlargement, there is a strong case on economic grounds for according nationals of new Member States free movement rights as early as possible following accession, and for there to be a concerted position across the existing Member States with limited opportunity for them to operate different transitional periods. However, as many observers have pointed out, the assumption that enlargement, creating an economic area with a total population of some 460 million, reduces or even removes the need for long term immigration from outside the EU – apart from those with certain specialised skills – should be questioned.

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<sup>12</sup> Doudeijns M. and Dumont J.C. (2003), “Immigration and Labour Shortages: Evaluation of Needs and Limits to Selection Policies in the Recruitment of Foreign Labour”, paper presented at the EC-OECD joint Conference “The economic and social aspects of migration”, Brussels, 21-23 January.

As already discussed in response to question 2, there are a number of reasons to believe that the old EU countries would benefit from this additional labour supply to fill in low-wage low-status jobs only in the short to medium term (perhaps 5-10 years). Even Turkish accession would be unlikely to meet the EU's long-term labour needs, in view of Turkey's declining fertility and rapid economic growth.

Temporary Labour Migration Programmes (TLMPs) were a policy instrument widely used to manage the post-war labour migration movements – the main one in Europe was the 'Gastarbeiter' programme in Germany (1955-73). The main reasons why they were abandoned is that they failed to meet their stated policy objectives and instead generated a number of adverse or unintended consequences, notably the exploitation of migrant workers in both recruitment and employment, the structural dependence by certain industries on continued employment of migrant workers, and the non-return and eventual settlement of many guest workers<sup>13</sup>. Critics of TLMPs argue that such programmes are simply unfeasible in a liberal democracy, because they intrinsically involve restrictions of workers' rights which are unacceptable in nation states based on egalitarian principles.

In recent years there has been a world-wide tendency to advocate a return to TLMPs to cope with the current global trends towards increased temporary and circular labour migration. The main reason for this is the growing perception among analysts that there is a demand for migrant workers at all skill levels and that, where strong 'push and pull' economic drivers of labour migration operate, border control alone is not able to fully prevent people from moving but rather encourage them to do so outside the legal channels. Proponents of new TLMPs argue that innovative policy designs could help to avoid past policy mistakes and generate 'win-win-win' outcomes, as migrants win by earning higher wages abroad, receiving countries win with additional workers who expand employment and economic output, and sending countries win via greater remittances and the return of workers who gained skills abroad.

New TLMPs seem a feasible policy option to manage effectively at least part of the current labour migrations – while avoiding the failures of the past experiences – only with a high degree of government involvement and intervention in the labour market. A set of appropriate government policies are needed to secure equal treatment of migrant workers, monitor the migrant recruiting industry, enforce sanctions against both employers and migrant workers who violate the terms of the programs, encourage migrants to return home, and assist in their reintegration<sup>14</sup>.

The question of the impact of different admission routes on the integration of labour migrants is not an easy one. The risks of points systems detached from the labour demand and selecting highly skilled migrants only on the basis of their characteristics have been discussed above. The removal of barriers to the free circulation of people within the European Union and of restrictions to the access to the labour market has to be considered as a positive measure to foster economic integration. Greater attention has to be paid to the effect of temporary labour migration programmes on migrant integration outcomes. As it will be argued in the next paragraph, temporary worker programmes intrinsically involve some restrictions of the individual rights which risk to create a trans-national working class stratified not only by skill and ethnicity but also by legal status, available for exploitation by unscrupulous employers<sup>15</sup>.

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<sup>13</sup> Castles S. (2006), "Guestworkers in Europe: A Resurrection?", *International Migration Review*, 40(4): 741-766

<sup>14</sup> Ruhs M. (2006), "The potential of temporary migration programmes in future international migration policy", *International Labour Review*, 145 (1-2): 7-36.

<sup>15</sup> Castles S. (2004), "Why migration policy fail?", *Ethnic and Racial Studies*, 27(2): 205-227

What it is important to recall here is that an effective management of temporary migration needs policies that cope dynamically with the concept of ‘temporariness’. Migrant intentions to stay or leave change over time and the States should be prepared to grant the right of permanent residence and opportunities for social mobility to workers who spent part of their career contributing to the host country labour market and fiscal system. Although incentives to foster and circular migration (e.g. multiple entry visas), return migration and the reintegration in the home country are essential to maximise the workers’ opportunities to come back, return is unlikely to happen if the worker has developed strong ties with the host-society – as shown by the ‘Gastarbeiter’ experience. Likewise, the democratic States can not deny the right to settle to people who have their family in the host country and children in school. Therefore, it is important to provide practicable temporary-to-permanent admission routes not only for the highly skilled.



## **5. Should third-country migrants enjoy the same labour and social rights granted to the EU citizens?**

The United Nations and the International Labour Office have enacted a number of international Conventions that outline a comprehensive set of rights for migrants, including the right to equal protections under labour laws, anti-discrimination laws, and family laws. For example, the International Convention on the Protection of All Migrant Workers and Members of their Families (ICMR), adopted by the General Assembly of the UN in 1990, sets out a very broad set of rights for migrants, including those living and/or working abroad illegally.

Both regular and irregular migrant workers should enjoy equality in wages and working conditions with national workers and should be allowed to join unions. Regular migrants should have additional rights, including the right to information about jobs abroad, freedom of movement within the host country, freedom to form unions and participate in the political life of the host country, equal access to employment services, public housing, and educational institutions. In addition, they should be eligible for benefits under social security systems to which they contribute, and receive refunds of their social security contributions on departure if the system does not allow the full transferability of the social security benefits matured in the host-country.

While the trade-offs between short-term economic migration and long-term settlement are difficult, a system in which settlement rights are denied to certain categories of immigrants should be seen with reluctance. Granting settlement rights to migrants who make a long-term contribution to the economy and society, regardless of their skills attributes, is critical. Indeed, while establishing a sliding scale of settlement rights according to category of entry may be politically necessary, the basic premise should be that all long-term migrants (assuming they meet other generic criteria such as a clean criminal record) should be eventually entitled to full citizenship rights.

Further provision need to be made in order to address the categories of economic migrants who do not benefit from the Long-term Residents Directive. Guest worker programmes involve restrictions of at least some of the rights of migrant workers. For example, by definition, guest workers have a time-limited right to residence and employment in the host country. Time spent in employment as a guest worker usually does not count or help a migrant earn permanent residence rights. Other restrictions put too much power in the employers' hands and expose temporary migrant at the risk of exploitation. For instance, most guest worker programmes restrict migrants to employment in certain sectors, do not allow migrants to freely change employers, and require them to leave the country if they lose their jobs. Under most proposals for new guest worker programmes, migrants are also likely to have very restricted access to unemployment and welfare benefits. These legal barriers like work permits tied to a specific post or employer can lead to skill wastages and reduce the labour market efficiency, harming both migrants and the economy. While recognising that complete and unlimited portability across all occupations and sectors of the host country's labour market would undermine the alignment of the size and composition of economic immigration with the labour demand, the lack of portability of temporary work permits can force migrants accept unlawful working conditions. This applies to all occupations, but especially to migrants working, and also often living, in private households. A realistic and desirable policy objective would be to facilitate the portability of temporary work permits at least inside a defined job category and after a certain period of time (e.g. one year).

The duration of such period could be determined on the basis of a realistic assessment of the time needed for employers to recover at least part of their original migrant worker recruitment costs.

A reasonable period (not less than six months) to seek employment in the event of the termination of previous employment and equality as regards the access to core benefits are also basic rights that should be granted even to temporary migrants to empower their rights and protect them from exploitation.

While the protection of migrant rights should be a key objective of Government policies in democratic States, there might be unintended consequences of a ‘rights-based approach’ that need to be taken into account when these kind of policies are planned and implemented:

- There is an important asymmetry in the relationship between the numbers and rights of skilled and low-skilled migrants. Receiving countries typically entitle highly-skilled migrant workers to full economic and social rights at entry or after a short stay, generating a positive relationship between the number and rights of highly-skilled migrants. In contrast, the demand for low-skilled migrant workers is likely to be downward sloping with regard to migrants’ rights. More employment rights for workers generally mean increased labour costs, generating a numbers-rights trade-off. Significant increases in labour costs will, *ceteris paribus*, encourage profit-maximizing employers to hire migrant workers illegally. There is thus a need to ensure that the demand for migrant workers identified by employers actually is a demand for workers who will be employed in compliance with existing employment and immigration laws<sup>16</sup>.
- Policies that lead to sustained fiscal losses are often politically unpopular and may be unsustainable in the long term, so it is reasonable to expect fiscal considerations to play an important role in the political debate on migrants’ rights. However, the common statement that immigrants are a drain on the benefit system has no justification for people admitted through the labour migration channels. On the contrary, empirical evidence show that overall labour migrants contribute more in taxes than they receive in benefits<sup>17</sup>.
- An extreme rights-based position would suggest that if migrant workers cannot be granted equality of rights, they should not be admitted. At the other extreme, a strictly “consequentialist” approach could, in principle, tolerate restrictions on migrants’ rights if the result was an overall improvement for migrants. From this standpoint, migrants should be enabled to choose whether to accept low-skilled work and poor conditions by comparing their options at home and abroad. This highlights the need to include migrants’ voices and experiences in the numbers-right debate<sup>18</sup>.

Although the ICMR has become a point of reference of the “rights-based approach” to migration advocated by many international and national organizations concerned with the protection of migrants, many migrant-receiving countries have not ratified it. States that make egalitarianism a key component of their national identity should not restrict migrant rights, and pressure should be put on them at the international level. Exploitation of migrant workers and the absence of secure residence status and basic rights for many new residents undermine the rule of law and the welfare state in liberal-democratic societies. Restricting migrants’ rights may also be seen to generate significant social costs, especially if the restrictions are long term and lead to the emergence of a large group of “second-class residents”. These considerations have to be borne in mind by policy-makers establishing and enforcing migrant rights.

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<sup>16</sup> Ruhs M. and Martin P. (2006), “Number vs. Rights: Trade-offs and Guest worker Programmes”, COMPAS, Working Paper n.40.

<sup>17</sup> Gott C. and Johnston K. (2002), “The migrant population in the UK: fiscal effects”, Home Office Research, Development and Statistics Directorate, Occasional Paper n. 77.

<sup>18</sup> Ruhs M. and Martin P. (2006), *op. cit.*

## **6. What would be the best way to guarantee third-country immigrants the transferability to their home countries of social security entitlements acquired when working in the EU?**

Given the atypical lifecycle of migrant workers, they require special provisions with regard to the various branches of social security and services. In particular, the lack of portability of long term social security benefits might have adverse consequences. It might hinder return migration because, if there are no provisions allowing migrant workers to fully transfer their social security entitlements, migrants may be influenced in their return decision by the potential loss of (part of) the contributions they have paid for several years to the social security system of the host country. In addition, migrant workers who are certain of returning to their home country at some point but who will not be able to keep their benefits face high incentives to avoid paying social security contributions during their stay in the host country. Consequently, they might be encouraged to participate in the informal economy in order to get a higher take-home income.

Transferability to the home country of the social security benefits acquired while working abroad are mainly regulated by national social laws of the migrant-receiving countries or through agreements between the host and source countries – which can be signed bilaterally or multilaterally when a group of countries (like the EU) are involved.

As far as the transferability of pension benefits is concerned, the EU has been very active in signing bilateral agreement with its neighbouring countries in comparison to other major destination of international migration flows. On the other hand, attempts to incorporate the special needs of third-country nationals into the national welfare systems have remained scattered and uncoordinated. Most EU countries grant full equality of treatment to non-EU migrants only after awarding them long-term or permanent residence status. According to a recent study<sup>19</sup>, about 60% of migrants working with a regular contract in a European country are covered by bilateral or multilateral social security agreements which ensure full portability of their pension benefits. However, the remaining 40% whose pension rights are still regulated only by the host-country law are likely to face some restrictions either in terms of eligibility, replacement rates – i.e. the ratio of the pension to the (last) salary – or opportunities to totalise the rights matured in different EU countries.

International agreements on the portability of health care benefits are far less common, in particular if the systems of host and home countries are very different. For the vast majority of migrant workers access to health services outside the country of residence is regulated unilaterally by national law – the main exceptions being Turkey, which included health benefits in its agreement with the EU member states, and Morocco in its agreement with Germany. In the absence of a bilateral agreement, returning migrants can usually obtain health insurance in their home country only if they become employed there. There are apparently no minimum periods of insurance to have access to health benefits once the returning migrant is employed. Also, the contribution rates to public health systems are not age-dependent as with private health insurance, so returning migrants who have spent most of their career abroad while young are not disadvantaged when they return home at an advanced age.

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<sup>19</sup> Holzmann R., Koettl J. and Chernetsky T. (2005), “Portability Regimes of Pension and Health Care Benefits for International Migrants: An Analysis of Issues and Good Practices”, Social Protection Discussion Paper Series, Washington: World Bank.

However, retired migrants are only covered by the public health system in their home country if they qualify for a pension, and they are unlikely to have reached the minimum years of contribution to qualify for a pension in the home country if they have spent most of their career overseas.

The current best practices for benefit portability are clearly bilateral social security agreements – preferably based on multilaterally agreed standards – such as the EU regulations on European labour mobility, or the agreements between the EU and the Maghreb countries. For pension benefits, the key element for portability is totalisation of contribution periods and amounts in order to avoid disadvantages in eligibility and replacement rate. Bilateral agreements do not involve the transfer of contributions between the social security institutions of the host and the home country, avoiding possible problems related to the lack or unreliability of pension systems in source countries. Also, they are specifically designed to avoid double coverage – i.e. the case for intra-company transfers.

For health care benefits, the current best practice seems to be full access of the retiree to the health care system of the residence country, and the reimbursement of the average health care costs for elderly of the residence country by the country paying the pension benefit. Yet, this approach is so far only practiced for retirees within the EU and not yet with countries outside the EU even under bilateral agreements. Hence, as a quick way forward to achieve enhanced portability of social benefits, host and home countries should be invited to start bilateral negotiations that include health care provisions as well as pensions benefits. Such negotiations are likely to be difficult, in particular if the benefits systems between host and home countries are very different. Increasing diversity of countries of origin may be an additional challenge.

According to a recent study, one way forward to enhanced benefit portability between countries is a move toward a more actuarial structure<sup>20</sup>. For pension benefits this could be achieved by the introduction of a defined-benefit (DB)-type system. Internationally, DB-type systems have gained importance, at least in the form of voluntary top-up provisions. Actuarially structured health care systems with a major prefunded element for premium smoothing could likewise offer a way forward, but more likely for voluntary supplementary provisions than as a replacement of existing Bismarckian-type health insurance provisions. Supplementary health is conjectured to gain importance, and the lack of portability creates main obstacles to mobility, even within common economic areas such as the EU.

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<sup>20</sup> Holzmann et al. (2005), op. cit.

## **7. What policies and actions have been more successful in achieving the integration of third-country workers and what possible role could the social partners, the NGO and the civil society play in this context?**

Integration of migrants in the host-society is a multi-dimensional process which develops in four major domains of migrant lives: economic (employment is the first step towards social inclusion), social, cultural and political. Patterns of disadvantage and exclusion are complex. There are substantial differences in the levels of economic, social and cultural integration between and within migrant communities (e.g. between men and women, people with high and low education). An effective integration strategy needs to accommodate different migrant backgrounds and trajectories (e.g. labour migrant and family members, short-term and long-term migrants).

A portfolio of interventions is thus needed, recognising that one-size-fits-all will not deliver for the diverse migrant population any more than it would for the population as a whole. Moreover, migrants can be well integrated in one sphere of their life (e.g. good employment outcomes) and not in the other (e.g. social isolation) – a phenomenon known in the literature as segmented integration. To avoid segmented integration, a comprehensive integration policy should tackle the migrant disadvantage in all domains at the same time<sup>21</sup>.

It is impossible to review here all the successful policies which might foster migrant integration. The following are some key measures that Governments should establish. Some of them focus on conditions at arrival while others refer more to long-term integration goals.

- Language courses – Studies looking at the causes of migrant disadvantage in the labour market find that the lack of language skills is a major hindrance. Increasing attention is currently paid to provide opportunities for migrants not speaking the local language to attend language classes, both in Europe and elsewhere.
- Access to relevant information – Programmes are needed which provide practical advice and describe the country's administrative systems and the formalities to be fulfilled. It is crucial that labour migrants are enabled to learn about the receiving country labour market and acquire some useful knowledge and skills prior to admission. In this respect, best practices are for instance the settlement information kit in New Zealand (covering practical issues like housing, health, education, work, business, laws, banking, transportation, etc. but also providing information on legal issues, behavioural norms, history of the country) and the websites of the Australian and Canadian immigration authorities.
- Recognition of qualifications – Migrants often experience deskilling because their qualifications are not (promptly) recognised. The issue is increasingly important with the globalisation of migratory routes because recognition authorities have to deal with qualifications and diplomas obtained in many different countries. Some countries have introduced arrangements for recognising immigrants' qualifications and professional experience or have extended existing systems. In Canada, for example, discussions are taking place between the authorities and the social partners over the creation of an independent agency for recognising references and qualifications earned abroad.
- Integration into the labour market is an essential step towards social inclusion. Policy measures should be implemented to help unemployed people find a job at the level matching the migrants qualifications, experience and expectations, and to protect more effectively migrants' employment conditions. Resources should be devoted to verifying the terms of employment after the fact.

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<sup>21</sup> Sarah Spencer (2006), "The Challenge of Integration in Europe", in Papademetriou D. (ed.), op. cit., pp. 1-30

- Labour Inspectorates have to be empowered to enforce employment laws and regulations. Companies that employ large number of migrants should be encouraged to develop a track record of fair practices on the issue. Enforcement is particularly important for sectors programmes that are more subject to abuse (agriculture, domestic services).
- Family reunification is undeniably a factor of integration for immigrants and should be allowed to all labour migrants at entry or after a minimum period of stay in the host-country. From the immigrant standpoint, the fact of bringing over the family underlines the desire to stay in a country in the long-term and the presence of children helps to increase links with society in the host country. An analysis of the outcomes of foreign pupils shows the influence of the age on arrival in the host country on their results. In some European countries (Germany, Belgium, Denmark and France), migrant children who spent years in the country of origin after the parents had emigrated performed worse<sup>22</sup>.
- Social inclusion within the mainstream institutions and activities that meet individual and societal needs (education, health and social care, housing) is essential not only to secure universal human rights for migrants and their families but also because exclusion in one sphere of life can negatively affect outcomes in other spheres – e.g. poor housing conditions increase the risk of bad health, or most obviously poor education of migrant children affect their work opportunities.
- Inclusion in civic and political life is also a critical issue particularly for long term migrants. Active participation in the institutions and obligations of civic societies, trust and good relations with neighbours and the wider community, political participation (e.g. the right to vote in local elections) should be promoted. Anti-discrimination frameworks and awareness campaigns should be implemented to tackle the possible opposition of the local population.
- European Governments should acknowledge that irregular migration is a reality in the contemporary world and responsively deal with the often large undocumented migrant populations residing within their territories. The lack of legal status is the utmost barrier to economic and social integration. There is usually concern at a policy level around amnesties for irregular migrants. The European Commission should nevertheless initiate a dialogue among Member States on devising a pathway for irregular migrants to legal status. In order to avoid attracting other undocumented migrants, provisions for accessing the legal status should be planned in parallel with reforms of the legal immigration systems expanding avenues for legal migration especially for low-skilled workers.

Integration is not only a state responsibility, but a shared responsibility among a series of actors including employers, unions, community groups, the voluntary sector and the public. Social dialogue is essential to the development of sound integration policies and should be promoted and implemented. Employers for instance may provide language courses or training for new migrants. Trade unions can provide access to information on health, safety and employment rights and support migrants in addressing exploitation by unscrupulous employers. Membership in a union is also an important way for migrants to engage with local workers in circumstances where they have a common interest<sup>23</sup>.

Civil society organisations and migrant associations that promote the rights and welfare of migrant workers should be funded as they can play a significant role in providing services that meet specific migrant needs, from health, education and housing to specialist advice on immigration rules.

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<sup>22</sup> OECD (2006), “Where Immigrant Students Succeed - A Comparative Review of Performance and Engagement in PISA 2003”, Paris: OECD.

<sup>23</sup> Sarah Spencer (2006), *op. cit.*

Their support is likely to be more effective than the government initiatives because they might operate closer to the migrant communities, have a better understanding of migrants' diverse needs, and even help undocumented migrants who often can not be targeted by the government policies and perhaps distrust the public institutions. Community and Faith groups play a key role in building bridges between migrants and with the wider community and foster a sense of belonging. They may even give migrants a voice within the public debate on integration. Finally, the media has the great responsibility to provide a fair image of migrants, in particular avoiding sensationalist coverage of incidents involving migrants.

To conclude, two final considerations. Integration processes take place primarily at the local level. Local integration policies should have the highest priority as municipalities are best placed to understand the role of the local community and play an essential role in the delivery of services<sup>24</sup>. Integration is also a two-way process: not only migrants need to 'adapt' to the host society and the barriers hindering their integration to be addressed, but the local population needs to be awakened and actively involved. For too long integration has been considered only a migrants' responsibility. As long as policies will neglect this crucial variable of the problem the risks of failure will remain high.

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<sup>24</sup> Penninx R. (2006), "Integration Processes of Migrants: Research Findings and Policy Lessons", in Papademetriou D. (ed.), op. cit., pp. 31-52.



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**BRIEFING NOTE FOR THE HEARING ON  
ECONOMIC MIGRANT WORKERS**

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## **Preliminary remarks**

In this briefing note, we confine ourselves solely to a discussion of admission policies in the context of labour immigration by third-country nationals from abroad for the purposes of dependent employment. Other forms of labour immigration, e.g. by self-employed persons for the purposes of establishing a business, or immigration within the framework of international agreements, are not dealt with in this paper; nor does it discuss access to employment for immigrants admitted for family reasons or on humanitarian grounds.

### **Question 1) Is migration an answer to the Member States' ageing problem and working-age population decline?**

While these problems cannot be solved solely by immigration, it can at least cushion their impacts. Changes in natural demographic development require solutions in a variety of regulatory areas, immigration being one of these areas.

### **Question 2) If so, should the Member States focus on the high-skilled workers or a mix of them including the low-skilled?**

The current debate focuses strongly on the admission of high-skilled workers (Global Commission on International Migration 2005; Weizsäcker 2006). However, current experience shows that focusing solely on high-skilled workers is not enough. The programmes which exist in many OECD countries for the seasonal and fixed-term employment of labour migrants illustrates that there is currently a demand for workers to fill basic or low-skilled jobs, especially in agriculture, the health sector and simple services. In the classic immigration countries too, there are specific programmes which allow seasonal employment (e.g. in the agricultural sector in Canada, the USA and Israel) or fixed-term employment in simple or low-skilled sectors (OECD 2007). The large number of illegal immigrants in the European Union – estimated to be as high as six million – makes it very clear that there is currently a need for workers to fill lower-skilled jobs. If this demand cannot be met through regular channels, illegal employment will continue and in some cases may further increase. Against this background, it is politically short-sighted to focus solely on policy measures to manage the immigration of high-skilled workers.

However, the recruitment of third-country nationals to jobs in simple or low-skilled sectors is a highly contentious issue, both politically and socially, in most EU Member States, whereas the admission of migrants to carry out seasonal work in sectors such as agriculture which cannot offer any long-term employment prospects for the local workforce is less controversial. However, in sectors where local workers with basic or low skills fear that they may be replaced by cheaper labour, there is considerable political conflict potential (Hanson, 2005).

So it is important, as a general principle, to ensure that effective procedures are implemented which protect the local population from wage dumping and unfair competition while protecting migrant workers from labour exploitation (see answer to Question 4).

As regards the admission of immigrants for temporary employment requiring basic or low skills, it must be borne in mind that for some immigrants, typically a smaller proportion, longer-term prospects develop for the employers and employees alike: employers do not want

to lose workers who have settled well into the work routine, and workers on fixed-term contracts may over time shift their focus and contemplate relocating on a more permanent basis. In order to facilitate these more permanent arrangements, which are desirable on both economic and humanitarian grounds, legal opportunities for a regularised transition to more permanent residence must be available to seasonal and temporary workers as well (see answer to Question 4). This option is also open on a regular basis in the classic immigration countries which offer temporary immigration opportunities: here, a residence permit acquired by temporary workers can either, after a residence period of between two and five years, be directly exchanged for a long-term residence permit, or, when applying for long-term residence, these migrants are given strong preference in a selection process with bonus points.

Furthermore, in the admission of migrants for employment in simple or low-skilled jobs, it should be ensured that no ethnic or national bias or pattern arises in the various skills categories. In particular, biased selection of exclusively low-skilled workers from one country of origin gives great cause for concern on social grounds: if only low-skilled workers are admitted from a particular country, there is a risk that negative stereotyping of nationalities will occur. Furthermore, if there is a national bias in the recruitment to low-skilled jobs, this denotes a failure to harness the potential of pro-active individuals who have the capacity to perform representative and intermediary functions and act as a link between their own and local communities. For that reason, when recruiting from the main countries of origin of immigrants working in low-skilled or simple economic sectors, it is important also to target high-skilled workers on a preferential basis in order to avoid ethnic or national stereotyping or counter existing stereotypes.

**Question 3) Can the Australian or Canadian cases, based on quotas by economic sector, be taken as examples for the European Union?**

They can offer ideas, but Europe's own experience also provides valuable pointers as to how labour immigration can usefully be developed, as described in more detail in this paper.

A blanket assessment of the quota systems is not possible as the term 'quota system' is used to describe a wide range of procedures. Quotas are, in essence, no more than upper limits on total immigration numbers or on the number of migrants admitted in a specific labour market category.

In general, a distinction can be made between genuine *management quotas* and criteria-based management with *safeguard quotas* (Vogel 2005).

- With management quotas, a desired number of immigrants is initially defined. Secondary criteria then determine how these places are to be distributed among a potentially large number of prospective immigrants, e.g. via waiting lists, by ballot, or via a points system which establishes the criteria for a good integration prognosis. The quota is filled in each quota period.

From our perspective, it is remarkable that many economists and politicians with a market-economic orientation are firm advocates of this procedure. In all other areas, competition and the market economy are supposed to be the primary factors ensuring efficiency, yet in relation to the management of migration, a major role is assigned to the state to make policy and manage migratory flows. The introduction of management quotas implies that the expert commissions established by the state are able to correctly predict short- and long-term labour

shortages and draw up appropriate indicators to identify the type of immigrants who can alleviate these shortages. In essence, this postulates a form of labour market management, at least for some sections of the economy, akin to that which existed – and largely failed – as a macroeconomic tool in the planned economies of Eastern Europe. From a regulatory policy perspective, the steering of labour immigration through management quotas would appear to constitute a systemic breakdown which suggests, at the least, that a more market-based solution should be sought.

- In the alternative model, the question first posed is *which* immigrants are desirable from a labour market perspective. Typically, these are all those immigrants who can demonstrate that they have secured a position which cannot be filled by privileged domestic workers. In principle, all immigrants who are desirable when measured against previously defined criteria should be able to immigrate. However, this type of criteria-based management can also be linked with safeguard quotas. The agreed safeguard quotas are generally much higher than the predicted number of immigrants. If unexpected developments occur, resulting in a substantial increase in the number of immigrants, then the legislator and authorities gain time, through their safeguard quotas, to adapt the criteria to the new situation if necessary. This quota variant serves the objective of process-oriented monitoring within the framework of criteria-based management.

In the classic immigration countries mentioned, management quotas exist to determine the number of migrants admitted for family reasons or on humanitarian grounds, but also for labour immigration. In addition, quotas exist for the admission of migrants for seasonal or temporary employment; these quotas operate partly as management quotas and partly as safeguard quotas. The use of management quotas has been the subject of considerable debate in the immigration countries and has been modified on various occasions over recent decades because such management had not achieved the positive effects that were desired. For example, Canadian studies show that despite having good qualifications of relevance to labour market segments which require their skills, immigrants often do not find work which matches their skills, largely because employers prefer to take on applicants with domestic qualifications and work experience (Alboim, Finnie et al. 2005).

In EU Member States, criteria-based management without safeguard quotas is currently the dominant model, although management quotas are now increasingly being considered (OECD 2007).

It was and is currently still possible for workers who wish to enter the country for the purposes of employment to look for a job themselves. In this case, admission is managed via criteria such as specific skills requirements or by means of a labour market priority test. Furthermore, former students from third countries can often look for a job, which must comply with defined standards. The selection process is highly restrictive at present, however, with very tough obstacles facing applicants.

The processing of work permits by the employment services, which are geared towards a clientele consisting of the domestic unemployed, has caused problems, with labour shortages proving hard to manage under present conditions through criteria-based schemes, thus discrediting these systems.

Experience with the regulation of labour mobility in the European Union itself also offers the opportunity to consider variants of such criteria-led admission procedures for third-country nationals. The expansion of freedom of movement for workers to new Member States always aroused great concerns, which have subsequently proved to be unfounded. Freedom of movement for workers, i.e. the right to apply for a regular position and thus obtain a right of residence, is one of the European Communities' core freedoms. This freedom was only later extended to encompass freedom of movement for other groups of persons. Current problems with immigration from the new Member States are wrongly attributed – e.g. in Germany – to this freedom of movement for workers, although they actually relate to other forms of mobility (deployment within the framework of work and services contracts, freedom to provide services, freedom of establishment) or are caused by general weaknesses in regulation and control (Cyrus 2006).

There is no reason why it should not be possible to proceed on the basis of the existing national management systems for workers in the EU Member States to evaluate and possibly relax the criteria applied here, and speed up the review processes. Ideally, the processes should be carried out by an independent agency. In this context, a remarkable consultation and decision-making process is currently taking place in the United Kingdom (Home Office 2006). To avoid unfair competition arising due to the admission of labour migrants, various options are being discussed which should be looked at in more detail: a labour market priority test using EURES; the identification of shortage occupations/shortages in skills and labour on a sectoral basis for quotas without any such test; the levying of employers' fees; payment above the minimum wage; and/or attestation (Papademetriou and O'Neil 2004) and certification (Home Office 2006) of employers are options which could be considered to reduce the risk of unfair competition.

With criteria-based management, it is recognised that employers can decide better and more flexibly than officials or government-appointed commissions whether and where workers are required (Papademetriou and O'Neil 2004).

In order to avoid the risk of a generally unrestricted number of immigrants when unexpected developments occur, and in response to public concerns about this issue, safeguard quotas can be agreed for criteria-based admission procedures as well.

This form of criteria-based admission procedure with safeguard quotas is emerging as a social policy instrument which facilitates more market-based and effective management of cross-border labour migration.

#### **4) What kind of residence status should be given to economic migrants entering the EU, long-term or short-term, and what impact do these arrangements have on the integration of migrants?**

We do not consider it sensible or necessary to grant a settlement permit or unlimited residence permit to all labour migrants from the outset on first entry (OECD 2007: 98). Experience in the classic immigration countries has shown that immigrants do not always remain in the chosen country on a permanent basis. There are various reasons for this: in some cases, migrants simply wish to remain for a limited period of time in order to acquire professional skills and experience before returning home or migrating onwards to another country. In some cases, their expectations are not fulfilled, so despite their original intention to remain, they

return home, e.g. because they were unable to find work which matched their occupational skills. However, most countries lack precise data on out-migration. One exception is Australia, which produces annual statistics on outmigration. In 1999/2000, 41 000 people left the country permanently; around half of them were immigrants (Werner 2002: 649).

The argument in favour of granting a temporary residence permit at first is that this provides an orientation and trial period for both sides before a long-term decision is taken. It avoids immigrants 'burning their bridges' too hastily. Another argument in favour of granting a temporary residence permit at first is that in some EU Member States comprehensive social security entitlements are only conferred with the acquisition of long-term residence rights. The granting of a limited residence permit maintains the legal basis to restrict access to social benefits during the transitional period covered by the temporary residence permit; this avoids a situation in which immigrants participate in labour market programmes as a means of accessing the social security systems.

It is important, however, that the residence permit is renewable and that labour migrants who are initially admitted on a temporary basis are legally entitled to extend their stay provided that they fulfil specific conditions and residence periods (or, if appropriate, can apply on a privileged basis for permanent status via a points-based selection process).

This type of legal entitlement to more permanent status also promotes integration, e.g. by heightening the motivation to learn the local language and because the successful acquisition of these language skills is rewarded. This is especially important for immigration into EU Member States which form smaller language groups and where knowledge of the local language is less likely to be acquired prior to entry.

We therefore recommend a two-stage phased model which is based on existing procedures practised in the classic immigration countries and also in the European judicial area. This proposal goes beyond the limited current political debate about the management of labour immigration into the EU.

As a rule, the current debate focuses on policies to manage permanent settlement by high-skilled workers who, due to their personal characteristics or human capital, are recruited in order to increase the host country's economic performance, flexibility and productivity. The main reference point for this debate is usually the single-stage selection processes implemented in the classic immigration countries, i.e. the USA, Canada, Australia and New Zealand, which generally offer applicants with good integration prospects the opportunity for direct and long-term immigration without requiring them to have secured employment first.

The purpose of these procedures is less to satisfy current demand for labour than to attract incomers to improve the national economy's competitiveness in the medium to long term (OECD 2007). In light of current development trends in the immigration countries, we do not believe that giving consideration solely to a single-stage admission process for economic migrants through management quotas, implemented by public authorities, with the distribution of places taking place via a points-based system, is beneficial, for three reasons:

- 1) Adequate account is not taken of the fact that in a points-based system, a substantial proportion of immigrants do not achieve adequate labour market integration; instead, they are employed below their skills level and suffer wage discrimination, as analyses of

Canada and Australia show (Alboim, Finnie et al. 2005; Liebig 2007: 36). In this context, attention is also drawn to the return and onward migration mentioned above (Werner 2002).

- 2) There is also a failure to recognise that a single-stage selection process is only one of several instruments available to manage the long-term immigration of high-skilled workers. In the classic immigration countries, it is supplemented by programmes for seasonal and temporary employment and, above all, through the admission of students.
- 3) Finally, there is also a failure to take account of the fact that in most classic immigration countries (with the exception of Canada), most of the long-term immigration now no longer takes place through single-stage processes but through a change in status from temporary residence granted for the purposes of work or study.

In Australia, around half the migrants granted long-term residence are persons who are switching from a temporary status (Liebig 2007). Whereas the political rhetoric has long focused on the strict separation between immigrants and temporary migrants, the latter being obliged to return home, this no longer accords with the current scenario. Temporary labour migration has thus become the first step towards long-term immigration (OECD 2007).

In the classic immigration countries in recent years, the importance of two-stage selection processes – in which admission for temporary employment (with a job already having been offered) can become the first step towards long-term immigration for persons who meet the relevant criteria – has increased. In New Zealand and Canada, bonus points are awarded for prospective long-term immigrants who have already gained professional experience or educational qualifications in the host country.

In Australia, too, Australian work experience and university degrees have been given greater weight since 1 September 2007.<sup>1</sup> In the USA, the admission of temporary labour migrants (H1b) as long-term immigrants is well-established in practice (Papademetriou and O'Neil 2004). In some EU Member States, too, the option of converting temporary migration status into long-term residence has become an important immigration route (e.g. Spain, Italy and the United Kingdom).

Thus a clear trend is emerging, with a two-stage selection process – in which the offer of a job is the prerequisite for admission for an initially temporary stay for the purpose of employment, followed by a subsequent change of status – becoming increasingly important.

Against this background, it is necessary, in searching for ways of managing labour immigration, to consider the correlation and interaction between admission for seasonal/temporary employment and long-term immigration. We recommend that labour immigration into the EU be based mainly and from the outset on a **two-stage phased model** (see box).

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<sup>1</sup> See [http://www.immi.gov.au/legislation/amendments/lc0\\_1092007\\_1.htm](http://www.immi.gov.au/legislation/amendments/lc0_1092007_1.htm)



**Box: The two-stage phased model for the admission of labour migrants**

The two-stage phased model could take the following form: In **Phase 1**, after a job offer has been made, a temporary residence permit is granted for approved migrant workers. Immigration can take place for the purposes of seasonal or temporary employment. In granting admission, it is important to ensure that no privileged domestic workers are available and that employers comply with binding standards. Employers may only appoint newly arrived migrants if they fulfil binding criteria (pay and working conditions). Compliance must be demonstrated and possibly enforced through appropriate measures (see Question 7). For a limited period of a maximum of 12 months, the new appointee is tied to the employer. In order to avoid any abuse or exploitation of migrants as a result of this binding relationship, measures to develop social support services and to strengthen legal certainty and conflict resolution must be carried out (see answer to Question 7). During Phase 1, access to some social benefits is restricted for up to 24 months. Immigrants must as a matter of principle have the option of extending their stay.

**Phase II** relates to admission as long-term immigrants. In this context, temporary migrants who meet the personal and legal requirements (e.g. minimum duration of residence, language skills) must be granted a legal entitlement to long-term residence after a maximum of five years.

In the two-stage model, a firm offer of employment is initially the prerequisite for criteria-based temporary admission (European Commission 2005).

At the same time, however, immigrants' rights and security of expectation are strengthened through a *legal entitlement* to extend their residence permit and/or privileged admission to long-term immigration if the relevant preconditions are fulfilled (OECD 2007).

It is important to emphasise that without a legal entitlement to extension, temporary immigration in the two-stage phased model loses some of its appeal, especially for high-skilled immigrants.

With the two-stage model, it is recognised that for normative and functional reasons, the rights and entitlements of immigrants must be taken into account and protected effectively. The proposal of criteria-based selection in a two-stage model continues the traditions of labour market protection which already exist in Europe. In legal-systematic terms, the proposal is based on the principles of Decision No 1/80 of the EU-Turkey Association Council and on the European Commission's deliberations on European civic citizenship, defined as guaranteeing certain core rights and obligations to immigrants which they would acquire gradually over a period of years, so that they are ultimately treated in the same way as nationals of their host state, even if they are not naturalised (European Commission 2003).

With the two-stage model of labour immigration, transparency and predictability are created for employers and labour migrants alike.

**Question 5) Should third-country migrants enjoy the same labour and social rights granted to the EU citizens?**

Here, a distinction must be made between entitlements arising under labour and social law respectively. As regards the *entitlements under labour law*, it must be emphasised that the

provisions of the host country's labour law must be applied on a mandatory basis to labour migrants as well. Otherwise, there is a risk that local workers who are subject to the provisions of labour law will be disadvantaged in the labour market. This jeopardises public acceptance of the admission of labour migrants, with those being paid 'cheap wages' being rejected and perhaps even becoming the target of xenophobic acts (Treichler 1998). It is therefore imperative to make compliance with collectively agreed or legally established minimum wages the prerequisite for the granting of permits for the employment of migrant workers. Monitoring and effective enforcement of these binding standards are important in this context (see answer to Question 7).

As regards **entitlements under social legislation**, on the other hand, it would be sensible, as is the case in the context of 'classic' immigration, to avoid immigration into the social systems; phased acquisition of social rights with increasing duration and permanence of residence is therefore appropriate. In Australia, for example, labour migrants are not entitled to claim wage replacement benefits (income support) during the first two years of their stay. There are, however, various exceptions, especially as regards the benefits for families with children (Liebig 2007: 22).

In the implementation of the two-stage model which we propose, it would be sensible and practical to adopt the rules already applicable in each EU Member State to new immigrants with temporary residence as a means of regulating their entitlements under social law (Niessen and Schibel 2003). This principle would be flexible, would take account of the standards already achieved and the existing differences in the national social security systems, and would thus be acceptable in European policy terms.

**Question 6) What would be the best way of guaranteeing third-country immigrants the transferability to their home countries of social security entitlements acquired when working in the EU?**

The best solution is to conclude 'social security agreements' with the countries from which labour migrants originate and to which they may possible return, and/or in which eligible dependents reside. Social agreements protect countries' citizens when they migrate to another country, and also protect immigrants in the country. Through cooperation, social agreements reduce the risk that social security systems will be abused, while safeguarding individuals' entitlements by guaranteeing eligibility and transferability and protecting them from exploitation through the system.

The substantive and formal development of social agreements should comply with Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (Council of the European Communities 1971). Article 10 of the Regulation states: 'Save as otherwise provided in this Regulation invalidity, old-age or survivors' cash benefits, pensions for accidents at work or occupational diseases and death grants acquired under the legislation of one or more Member States shall not be subject to any reduction, modification, suspension, withdrawal or confiscation by reason of the fact that the recipient resides in the territory of a Member State other than that in which the institution responsible for payment is situated.'

If individuals who are entitled to benefits are denied eligibility of their acquired entitlements and transferability is also denied, this creates incentives so that those affected do not act on their intention to return but instead remain in the country or, alternatively, pretend to remain so that they do not forfeit their accrued entitlements. As regards nationals of countries with which no social agreements exist, however, the granting of full eligibility and transferability could result in disproportionately high administrative costs. In the event of financial benefits being paid out to persons abroad, there is also a risk that the bases of the claim can no longer be verified, resulting, for example, in pensions still being paid to deceased persons. In cases where no social agreements exist, the capitalisation of claims is an option. However, there is a risk here that the safeguard objectives will not be achieved, so the establishment of eligibility periods and age limits is appropriate. In many cases, social security objectives can then be achieved on an individual basis despite the lack of a social agreement.

**7) What policies and actions have been more successful in achieving the integration of third-country workers and what possible role could the social partners, NGOs and civil society play in this context?**

This question is phrased in such general terms that only selected aspects can be discussed in the answer. Integration describes a two-sided process to which both the institutions and actors in the host society and the immigrants themselves must make an active contribution. In general, it is apparent that integration tends to be most successful when immigrants feel accepted, associate the host country with professional and personal prospects, and develop a sense of belonging. This is encouraged by an immigration policy which offers effective protection from discrimination and social exclusion, and also, through transparency and legal clarity, offers a viable prospect of achieving long-term residence. A legal framework for admission and integration processes which all stakeholders recognise as transparent, consistent and reliable is the prerequisite for successful integration. In those immigrant groups which today are especially poorly integrated, families have often lived for decades without any secure long-term residence prospects.

The integration problems with members of the second or third generation in these groups are generally attributed to failed integration policies, but on closer inspection, it is clear that they are more likely to be the outcome of a non-integration policy which has made it difficult for immigrants to plan for the future with any certainty or develop a sense of belonging. Integration cannot be successful if immigrants are living indefinitely in legal limbo as regards their residence status (Liebig 2007: 33).

However, migrants do not only need a legal framework; they must also be aware of their rights and be able to assert them. Information and social support to enable immigrants to assert their existing rights should be provided through a variety of channels by public agencies, the trade unions or advice centres run by the voluntary sector and immigrants' self-help organisations. These channels should receive public funding.

The effective enforcement of binding standards for the admission and employment of labour migrants is fundamental. If standards are flouted and immigrants are employed in violation of the law – which clearly constitutes the crime of illegal employment, and in serious cases, human trafficking for the purpose of labour exploitation – this obstructs the local communities' acceptance of immigration. Effective enforcement of the rules and protection from abuse are therefore important. In this context, new approaches should be trialled, as the control strategies implemented to date by national inspection bodies are inadequate (Cyrus

2005). Merely tightening up these controls, as proposed in the European Commission's Communication on 'employer sanctions' (2007), is not enough to address the deficits in enforcement.

Tightening up the penalties is not appropriate as it depends on the risk of sanctions being imposed. Nor is merely extending the frequency of expensive checks by national inspection bodies a convincing approach as workplace inspections are random and simply encourage the tendency to blur responsibilities.

A supplementary instrument to enforce binding standards is therefore the establishment of incentives for self-regulation, such as those which exist among the social partners in the Scandinavian countries. The social partners and especially the trade unions should participate in the implementation of the admissions procedures and be involved, through their own trade union activity and advice, in monitoring compliance with binding standards. In this context, the trade unions should target the newly recruited workers and provide them with information and social support.

Employers and their organisations play an important role in compliance and enforcement of standards. The introduction of quotas without labour market controls should only take place if the relevant employers' association works effectively to implement the standards.

In the United Kingdom, special incentives for employers' self-regulation are being discussed. Employers who cooperate with the immigration and monitoring authorities and agree to classification would in return benefit from expedited and simplified procedures for the admission of foreign employers. These concessions would be withdrawn if violations occur.

As part of the planned points-based selection process, prospective immigrant workers from abroad will also receive bonus points if they can demonstrate that they have received a job offer from an employer who has been classed as reliable. In the USA, employers who cooperate with the trade unions and the authorities benefit from faster processing of work permit applications (Papademetriou and O'Neil 2004).

However, it is also very important to create incentives for the immigrants themselves to cooperate with advice agencies and monitoring authorities, for standards cannot be implemented without the workers, but only in conjunction with them. In general, strengthening legal certainty and conflict resolution for labour migrants, also in the workplace, is important. This includes social support through the provision of advice and representation if conflicts occur, but also the provision of incentives to cooperate with investigating authorities. As long as workers must expect that if they are discovered to be working in violation of the law, their work permit will be cancelled and they will be required to leave the country, they are highly unlikely to cooperate with the authorities and advice agencies. Workers who are working in violation of the regulations must be given special protection: they should be able to retain their work permit and seek another employer, and they should have a right to payment of retained wages and social insurance contributions, albeit with entitlements only arising after 24 months. To safeguard these claims, direct liability for wage claims on the part of the main contractors should be established, and in the event of employers' insolvency, payment should be made from a special fund financed from the penalties imposed in relevant legal proceedings.

By strengthening workers' legal certainty and conflict resolution as outlined here, it is possible to balance out the effects of commitment to a specific employer envisaged in the two-stage phased model we propose (Cyrus 2005).

Finally, attention is drawn to the importance of recognition of professional qualifications. Reports of experience gained in Canada (Alboim, Finnie et al. 2005) and Australia (Liebig 2007) clearly indicate that skills which were taken into account and awarded points in the selection process are not necessarily recognised after entry into the country. This applies especially to protected occupations. Here, it is incumbent on the relevant agencies to create the framework for a transparent and affordable test of the equivalence of immigrants' qualifications with a minimum of red tape.

In sectors which intend to apply or have applied for recognition as shortage sectors, employers' associations should develop a range of services to equip new immigrants with the country-specific skills they may lack (upgrading on a modular basis) and provide access to professional networks (mentoring, training for job applications, etc.) (Government of Victoria 2005).

## References

- Alboim, N., R. Finnie, et al. (2005). The Discounting of Immigrants' Skills in Canada. Evidence and Policy Recommendations. IRPP-Choices 11 (2) 2005.
- Cyrus, N. (2005). Trafficking for Labour and Sexual Exploitation in Germany, Geneva: ILO.
- Cyrus, N. (2006). Die Übergangsregelungen zur Einschränkung der Individuellen Arbeitnehmerfreizügigkeit. Eine kurzfristige Maßnahme ohne erhoffte Wirkung. AUSTER - Arbeit und Wohlstand im erweiterten Europa. Beiträge einer Kontroverse über Konsequenzen und Gestaltungsmodelle der europäischen Erweiterung. M. Flore, A. Herletzius and H. Schlatermund. Osnabrück, Secolo. 90-110.
- Global Commission on International Migration (2005). Migration in an Interconnected World. New Distinctions for Action. New York, Global Commission on Migration.
- Government of Victoria (2005). Inquiry into skills recognition, upgrading and licensing. Victorian Government Submission to the Joint Standing Committee on Migration's. Victoria.
- Hanson, G. H. (2005). Why Does Immigration Divide America? Public Finance and Political Opposition to Open Borders. Washington, Institute for International Economics.
- Home Office (2006). A Points-Based System: Making Migration Work for Britain. London: Home Office.
- Kommission der Europäischen Gemeinschaften (2003). Mitteilung der Kommission über Einwanderung, Integration und Beschäftigung. KOM (2003) 336 endgültig. Brüssel: Kommission der Europäischen Gemeinschaften.
- Kommission der Europäischen Gemeinschaften (2005). Strategischer Plan zur legalen Zuwanderung. Mitteilung der Kommission SEK(2005)1680. Brüssel: Kommission der Europäischen Gemeinschaften.
- Liebig, T. (2007). The Labour Market Integration of Immigrants in Australia. OECD Social, Employment and Migration Working Papers 49, Paris: OECD.
- Niessen, J. and Y. Schibel (2003). EU and US approaches to the management of immigration. Comparative perspectives. Brussels, Migration Policy Group.
- OECD (2007). International Migration Outlook. SOPEMI 2007. Paris, OECD.
- Papademetriou, D. G. and K. O'Neil (2004). Efficient Practices for the Selection of Economic Migrants. Paper prepared for the European Commission DG Employment and Social Affairs, Migration Research Group, Hamburg: HWWA.
- Rat der Europäischen Gemeinschaften (1971). "Verordnung (EWG) Nr. 1408/71 des Rates vom 14. Juni 1971 zur Anwendung der Systeme der sozialen Sicherheit auf Arbeitnehmer und Selbständige sowie deren Familienangehörige, die innerhalb der Gemeinschaft zu- und abwandern. ABl. L 149 vom 5.7.1971, 2ff."
- Treichler, A. , 1999. Arbeitsmigration und Gewerkschaft. Münster : LIT. .

- Vogel, D. (2007). Migration Policy; in: Gibney, Matthew and Hansen, Randall (ed.) Immigration and Asylum. From 1900 to the Present. Santa Barbara, Cal.: ABC Clio, Vol. II421-426
- Weizsäcker, J. v. (2006). Welcome to Europe: A European Blue Card Proposal. Reports and Analyses 13/06. Warsaw: Center for International Relations.
- Werner, H. (2002). "Die Zuwanderung unter Arbeitsmarktgesichtspunkten in Australien, Kanada, USA, Schweiz." Mitteilungen aus der Arbeitsmarkt- und Berufsforschung 35(4): 645-662.