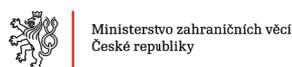


Migration to the Centre Project: RECOMMENDATIONS

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Multicultural Centre Prague, 2014



Introduction

The international project **Migration to the Centre** has examined how *acquis communautaire* and other European Union instruments influence migration and integration policies and practice in the V4 region (the Czech Republic, Slovakia, Poland, Hungary and, by Joint Declaration, Slovenia).

In the past years, all of the V4 region countries have realised that they are and will be countries of immigration. This can be seen in the increasing numbers of permanent residents, or the present discourse of competitiveness, which claims that skilled migration is necessary for economic growth. During the economic crisis, immigration from non-EU countries has mostly stagnated or slowed down while, at the same time, the mobility within the European Union has increased. Thus, at least temporarily, the countries in the V4 region do not need to rely to that extent on labour migrants from non-EU countries to fill labour shortages. EU citizens from within the V4 region, or from even poorer countries of the EU, find it attractive to work within the V4 region although overall wage levels still remain much lower than in the EU-15 member states. Still, high levels of recent emigration as well as the long-term effects of the low birth rate and the ageing of domestic population will require further immigration.

It is in this dynamic migratory context that the V4 region countries have been developing their policies in this area, which included new Foreigners Acts or the implementation of EU legislation such as the Single Permit Directive. While immigration, and even more so, integration policies are largely formed by national governments, the EU has represented a policy making platform with an increasingly larger importance. The European Union is far from having a “common immigration policy” as the EU framework regarding legal migration remains fragmented and the room for individual decisions and policies by nation-states is large.¹ This has the advantage that the individual V4 region countries can maintain policies that reflect their diverse economic, social and political conditions. On the other hand, there have been cases when the limits set by EU law, and the rights of third-country nationals that come with it, have been compromised by local policies and practices.

It is important to create social stages for exchange of data reflecting the experience of individual Central European countries with the implementation of EU and national laws and regulations in the specific socio-political and historical context of these countries. The project Migration to the Centre has proven to form such a stage. Its objectives to monitor and reflect migration-related issues in the context of three selected themes (Work and Residence Permits, Family Reunification, and Study and Training in the EU) have been fulfilled. Each topic was opened by an introductory analysis written by a Migration Policy Group expert, then tackled by each V4 region partner in two reactive articles and three media outputs voicing migrants’ perspectives on a given theme. In addition, each partner organized a public debate where the national and EU context of each of the migration themes were explored by invited local and international experts, migrants, and state representatives.

The last month of the project then saw the final proposed event held in Prague at the Faculty of Humanities of Charles University – the international conference titled Beyond Borders: Migration and (In)Equality in Central Europe in Comparison. The conference provided an excellent platform for bringing all outcomes from all partnering countries together and presenting them to and debating them with an international audience consisting of academics, NGO workers, migrants, and commercial and state sector

¹ Pascouau, Y. (2014). The future of the area of freedom, security and justice. Addressing mobility, protection and effectiveness in the long run. Brussels: European Policy Centre.



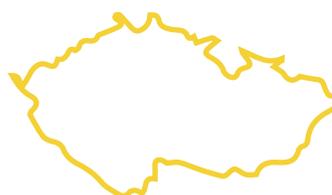
representatives. Each project partner introduced their country's specific summary of recommendations based on the project's outcomes that are available on the following web site created for the Migration to the Centre project: migrationtothecentre.migraceonline.cz.

The recommendation summary puts forward the intention of targeting public bodies and to promote discussion with state representatives while providing them with updated pieces of information in an attempt to close the gap between the legislature and practice and migrant needs. In a larger perspective, it is also in line with the proposed engagement of migration scholars, the general public, and the civic society on the whole in order to mobilize pertinent actors and institutions to enter the policy-making processes, while representing both the voices of the host societies and migrants themselves.

Country Specific Recommendations

The Czech Republic

– reported by the Multicultural Center Prague



Work and Residence Permits

- The Czech Republic has been preparing new migration legislation that puts stress on temporary or circular labor migration as well as limited skilled migration. The migration policy should not, however, only be a reaction to the current economic developments and be overrun by security concerns stemming from the economic crisis; it should also take into account future needs and demographic predictions. This includes the need for migrant workers in low-skilled jobs. These migrants, however, should not be geared towards temporary migration programs with low migrant rights protections.
- Migrant workers should gradually be granted real access and free movement in the labor market (e.g. the right to change employer) as well as equal access to public social security programs and plans (above all in the public health insurance system, both for the labor migrant and his/her family members). These rights must be available earlier than with the granting of permanent residence.
- Migrant integration should be seen as a multilevel process, both on the side of the migrants and Czech society, and equal legal status of the migrant must be acknowledged as a precondition of such integration. Coercive measures such as “if you do not learn Czech the state will restrict your rights” must be used very carefully.
- A gradual concentration of migration and integration policies under the Ministry of Interior leads to the growing stress put on security aspects. In this regard we recommend the division of authority among more actors (Ministry of Labor and Social Affairs, municipalities, etc.) and especially the division of repressive and control apparatus from that focusing on integration issues.
- In recent years the administrative processing of residence permits has been criticized because of delays and stricter interpretation of the law, which has had an adverse effect on the life of migrants living in the Czech Republic. Public authorities dealing with immigration matters should be personally and materially equipped on the same level as authorities working in other fields of public administration; the current practice that immigration authorities' work is much worse than the rest of the state administration must stop. The principle of proportionality must apply to all residence matters.



- The Ministry of Labor and Social Affairs and the Labor Inspectorate should focus on promoting the rights and dignity of migrant workers and the prevention of labor exploitation instead of focusing on numerical targets regarding the number of controls of illegal work being carried out.

Family Reunification

- The current legislative framework regarding family reunification in the Czech Republic is relatively liberal in the EU context. However, in recent years there have been restrictive tendencies that could have negative consequences for the families concerned.
- The Visapoint system, launched in May 2009, is an electronic system through which foreigners have to book a date in order to submit a visa/residence application at the Czech consulates. Due to a (secret) quota for the number of applications at each consulate, access to the system is very limited, if not non-existent, for certain groups of applicants. Consequently, this restrictive policy creates an obstacle to issuing long-term visas for family members.
- The set of rights enjoyed by family members of third-country nationals should be adjusted to the status of family members of EU citizens, not vice versa. The treatment of family members of Czech nationals must not be, in any respect, less favorable than the treatment of other EU states nationals' families.
- State migration policy must not create any form of residence dependency of the family members upon the sponsor.

Study and Training in EU

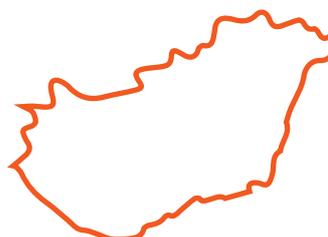
- International students should be a target group of the state integration policy, too. Courses in the Czech language should be available for them across the country.
- The public universities should pay appropriate attention to the special needs of foreign students studying (for free) in Czech language, which have often been disregarded. They should also fight discrimination against foreign students.
- The process of obtaining visa for the purposes of study needs to be made more transparent, unified, and basically simpler. This change will hold the potential to bring more migrant students not only to private but also to public Czech colleges and universities. The Visapoint system and the barrier it creates was also criticized in respect to foreign students (see above).
- An amendment to the Immigration Law needs to be passed in order to guarantee migrant students a shorter period for processing the study-related visa from the current 60 to 30 days so students are more successful in enrolling for the first semester of the academic year in time. Further, the amendment must guarantee a certain period of time (at least 3 months) for a legal stay in the country after the end of the study. This gives migrant students time to make serious attempts to join the Czech labor market.

Hungary

– reported by the Centre for Independent Journalism

Work and Residence Permits

Simplification of the current system:



- At the moment there are seven different categories of residence permits and within these categories there are 12 kinds of temporary residence permits, which makes the system very fragmented and difficult for the migrants to navigate.
- At the moment, different legal status and rights are associated with the different temporary residence permits. It is necessary to provide equal rights independent of status for migrant workers.
- As a result of the Single Permit Directive's transposition, the "one-stop-shop" procedure became 50 days longer – many companies cannot afford to wait that long.
- Either the process (of obtaining residence and work permits) should be further simplified or third-country nationals should be allowed to start working immediately after entering the state with a tourist visa while being able to work on the change of their status.

Family Reunification

Simplification of the current procedure:

- At the moment the process needs to be initiated at the foreign consulate of the country where the family is residing (this means that in best case scenario, at only one place or in worst cases, where no Hungarian consulate exists, just outside of the country of origin).
- Provide the possibility of claiming residence permit with the purpose of family reunification and launching the process during the stay in Hungary (even after family members have entered Hungary with a simple tourist visa).
- A more flexible system concerning requirements, especially financial requirements, for obtaining residence permit needs to be created.² According to current law, in a third-country family with three children, the sponsor should prove the accessibility of a flat with at least three rooms as well as a specified income level: for every person the minimal level of subsistence (calculated on the basis of the Central Statistical Office's data). These are extraordinary high requirements as many Hungarian families live below this level, so in the case of legal third-country residents with the purpose of family reunification, equity should be given when taking these requirements into consideration.

Study and Training in EU

- Include the aim of supporting immigration with the purpose of pursuing studies or business in the national migration strategy.
- Introduce a residence permit for foreign students that will allow a legal stay for them with the purpose of job searching after their graduation in Hungary. (Currently they need to leave the country as soon as their studies finish.)
- Include the notion of "intercultural education" in the national core curriculum.

Poland

– presented by the Institute of Public Affairs

Work and Residence Permits

- The creation of an integrated system for monitoring and analysis of foreign workers



and the demand for the labour of foreign workers. This would counter criticisms about the reactive nature of Polish migration policy (“creating ad hoc instruments”). It could also contribute to a long-term approach towards the employment of foreigners in Poland in the context of the real needs of the Polish economy.

- The creation of conditions for the free circulation of labour with a minimum of formalities is desirable, for, amongst others, citizens of Ukraine (especially taking into account events at the turn of 2013/2014), as well as ensuring effective protection of their labour rights in practice. This can be done by means of, amongst other things, a liberalization of the visa policy. To this end one should, on the one hand, simplify procedures for obtaining work permits or extend the maximum period of employment on the basis of statements of employment (e.g. to one year within the next 18 months), and on the other hand, increase control over the system of statements (of employment) by introducing monitoring of fulfilment of declarations contained in statements and active combating of trading in statements.
- The system of the employment of foreigners should be made more flexible, e.g. by enabling foreign workers to more easily change employers, and the system of monitoring and prosecuting dishonest intermediaries should also be improved.
- Undertaking active measures to support local cross-border mobility is advisable – this brings economic and social benefits above all to border regions and local communities.
- Polish migration policy should contain mechanisms to actively encourage long term stay by selected groups of foreigners including students, graduates, migrants who regularly come to legally work in Poland, highly qualified workers and also members of their family through further simplifying residential-settlement procedures as well as more active integration activities in economic and social fields.

Family Reunification

Family reunification is not the end but the beginning of the immigrant integration process. In order to achieve social integration, a more integrated and holistic concept of operations of the state and non-governmental organizations is essential. Such a system of actions should be focused not only on the individual migrant (e.g., his or her position on the labour market), but also on members of his or her family (in areas such as education, health care, psychological support and integration in the local community). Among the most important elements of creating an integrated system are the following:

- The educational system: Teaching of the host country language and intercultural education, taking into account the cultural specificities of migrants, are essential.
- Psychological support: Migrant families which encounter a language barrier, cultural foreignness, new customs and a different way of life often experience a slump, trauma or disappointment. Psychological support is especially important during the first period of migration, before the relative stage of adaptation to the new situation.
- The integration programs: These programs should pay special attention to language learning and building relationships with the immediate social environment. To be effective, they must be individualized - take into account such factors as family size, age of children, the rhythm of work, place of residence and cultural patterns of family roles.
- Special attention must be paid to the situation of women. It is mainly women who benefit from family reunification, often being dependant on a male family member because of their residency status. Strong relationships within migration networks maintaining traditional role patterns of



women and men often result in the confinement of women in networks based on ethnic bonds. This problem particularly concerns migrants from third countries with a strong patriarchal culture.

Study and Training in EU

Irrespective of facilitating procedures that already exist, foreign students and graduates of Polish universities should be encompassed by solutions enabling the most favourable conditions of work and stay. The created conditions should encourage this category of foreigners to settle in Poland and benefit the labour market with their qualifications. Students, graduates of Polish universities, scientists and also foreigners taking up professional education or training are groups that are extremely important from the point of view of migration policy. In order to strengthen the position of foreigners who are studying and carrying out scientific research in Poland, the following should be undertaken:

- Disseminate information about opportunities for studying in Poland.
- Develop a plan for creating a new institution that would deal with the international exchange of students and researchers, and the promotion of Polish universities in the world.
- Support the inflow of students from Eastern Partnership countries, amongst other things by efficient implementation of procedures linked with the issuing of long-term visas and residence permits.
- Develop additional solutions enabling recruitment of foreign candidates interested in taking up studies in Poland, which will encompass procedures linked with both their actual recruitment and the granting of visas.
- Simplify formalities linked with gaining residence documents by students and researchers, while, at the same time, taking measures to prevent exploitation of the above mentioned procedures exclusively with the aim of legalizing stay.
- Develop a grant/scholarship system encouraging people to study in Poland in fields that are significant for scientific research related to the dynamics of the labour market (in Poland).

Slovakia

– represented by The Human Rights League



Work and Residence Permits

- Adoption of conscious policies of labor market protection and migrants' integration based on evidence and analysis of needs (state and individual). This is to be done in line with official state strategies and visions, international obligations, and EU and national laws.
- Official recognition of migrants' contribution to European economies and societies.
- The entry and stay procedures need to be more flexible and clear to everyone. Reason: generally as an outcome of the Project discussions, it came out that immigration procedures are far too complicated to be passed successfully without intermediaries such as informal institutions (e.g., "Clients") that operate directly in migrant communities, NGOs, commercial agencies, and attorneys and communities.
- Paying attention to vulnerable groups of migrants (e.g., people living away from their immediate families) and their inclusion to the labor market in order to prevent deepening of these groups' social and economic isolation by measures such as the obligation to apply for work permits prior to family reunification.



- Ensuring that integration mainstreaming as well as gender mainstreaming is realized in the legislation process.
- Improving training programs for teaching Slovak as a foreign language for all categories of migrants.
- Implementing a system for the recognition of qualification, validation and recognition of work experience and requirements for foreigners in situations when acquired skills, education and professional experience cannot be formally proved.

Family Reunification

- The right to family reunification for Slovak citizens and their non-EU relatives should be equal to the right of family reunification for EU citizens and their non-EU relatives even in cases where the Slovak citizen has not exercised his/her right to free movement.
- The definition of family for EU citizens should apply to Slovak citizens equally.
- The law should require proof of family/private life only for the purpose of submitting the application for tolerated stay based on the reasons of family or private life; the obligation to provide the criminal record from the country of origin/residence should not be applied for purposes of family reunification.
- The law should provide for the right to permanent residence for an unmarried parent of Slovak child.
- The definition of “marriage of convenience” in the Act no. 404/2011 Coll. on the Residence of Foreigners should be in line with the definition in the Family Reunification Directive.
- The police should respect the right to family life and the right to privacy when investigating whether a marriage of convenience has been established. Invasive, humiliating or suggestive (biased) questions must become a forbidden practice.
- The legal regulation of a marriage of convenience should be understood as a measure for fighting against the abuse of immigration law. When examining whether a marriage is of convenience, the investigation should be carried out with both spouses.

Study and Training in EU

The need to increase numbers of international students generally in order to increase the quality of education in Slovakia.

- The foreigners’ children’s educational needs should be evaluated on the basis of the child’s main language of communication rather than his/her citizenship due to the fact that some children who have Slovak citizenship may not have mastered Slovak and, by the same token, children with non-Slovak citizenship may be completely fluent in Slovak.
- Securing organizationally and financially a regional system of free Slovak language courses for adult foreigners available across the country.
- Introducing the possibility of free higher education in the Slovak Republic for foreigners with subsidiary protection, as is the case with asylum holders.
- Ensuring that there are state bodies responsible for overseeing the solution of the above issues and human resources to adopt the recommendations and to implement them as state strategies (there is a lack of competent officers in the Ministry of Education and Ministry of Economy in Slovakia).



Slovenia

– represented by the Peace Institute



Work and employment

- Migrant workers are a population still significantly affected by the informal economy and remain the least protected category of workers. The Employment and Work of Aliens Act should be an improvement so as to break the “vicious circle” of the extreme exploitation of migrant workers who are victims of an employer’s illegal activity.
- The damage done by violations of workers’ rights (unpaid salaries, pensions, overtime work, layoffs in cases of sick leave, etc.) in many cases cannot be compensated, since official sanction procedures are ineffective, or those persons are no longer allowed to reside in Slovenia. State authorities, trade unions, pro bono lawyers and NGOs should work together in the same direction to help migrant workers have access to justice.
- Bilateral collaboration between ministries of employment and their mutual control of the activities of the private “employment agencies” specialized in the international transfers of employees should protect migrant workers in relation to many problematic or even false “entrepreneurs” of that kind.
- Basic administrative procedures such as, for instance, issuing a work permit, issuing a residence permit, etc., should be simplified.

Family reunification

- Legislation on family reunification should be improved in a way that the rights of migrants and refugees are fully respected, not merely kept on a level of minimal standards.
- In cases of family reunification based on provisions of the International Protection Act, the procedures should be shorter and less demanding for a refugee and his/her family members
- Slovenian authorities’ interpretation of who can be recognized as a family member is too narrow and should be more sensitive to specific circumstances of family life in the countries of origin.
- Reunification of a migrant family is possible only if a partner living in Slovenia has a regular source of income. Nowadays, when there is an increasing trend of precarious working conditions, it is one of the most difficult requirements that a migrant family has to accomplish. The Ministry of the Interior should revise the definition of the “regular source of income” in a way that would take into account this change on the labor market.

Study and Training in EU

- The Slovenian government and parliament should reconsider the provision in the new Law for Asserting Rights from Public Funding (ZUJPS) stipulating that the Slovene citizenship is a precondition for acquiring a scholarship.
- Procedures for recognition of previously acquired education in migrants’ countries of origin should be less demanding.
- The Ministry of Labor, Family, Social Affairs and Equal Opportunities should address the problem of so-called de-skilling of migrant work (migrant workers with higher education have to accept employment which is deeply beneath their level of education).



- The Ministry of Education should improve its educational strategy in a way that migrants are involved in the deliberation on a new educational policy pertaining to their equality.
- State authorities should work closely with schools and local communities in developing an effective policy against discrimination of pupils from migrant families.

Conclusion

While all partnering countries' recommendations reflect specific social and political conditions and circumstances, the above listings show a significant overlap in several areas. In the context of Work and Resident Permits, all project participants call for the simplification of the process and the availability of more flexible work permits enabling migrants to change an employer without having to start the entire procedure of obtaining a permit all over again every time they change (or have to change) their job. The call for genuine de-bureaucratization of immigration procedures and the application of the principle of equality towards all migrants also runs across the partnering countries' recommendations. In addition, Poland calls for supporting local cross-border mobility in borderland areas in order to refresh the stagnating economy in these regions. Hungary points to the fact that the Single Permit Directive procedure prolongs the waiting period by 50 days and most Hungarian companies cannot wait this long. Slovakia promotes the procedure of teaching Slovak to all migrants for free as an important integration tool, providing an easier route to permanent residency.

Similarly, in the context of Family Reunification, which is a newly introduced topic to a wider public discussion, the partners agree on the necessity to improve the existing process. One way to do this is to shorten the length of the procedure for family reunification, which has been criticized for being too long. There is an additional recommendation that seems to be backed up by all partners' outcomes, which is to establish a consistent definition of 'family' and to determine who counts (or does not) as a family member. This resolution should be done on both the national and European levels across all groups to curb human rights' inequalities. In addition, the Slovak Human Rights League claims that there needs to be a legal guarantee of the right to a permanent residence for an unmarried migrant parent of a Slovak child. Both the Multicultural Centre Prague and the Polish Institute of Public Affairs define family reunification as the very foundation of migrant integration. They call for a formation of an integration service package that should be available to both reunifying and already reunified families. This package includes support services in migrant children's education, psychological support to migrant families, and language support programs. Both the Multicultural Centre Prague and the Hungarian Center for Independent Journalism calls for lowering the bar for financial and material requirements towards migrants (e.g., a flat where each child has her own room, etc.). They highlight the fact that these requirements are extraordinarily high and many mainstream Hungarians live below this level.

In the area of Study and Training in the EU, all V4 partners propose a significant increase in social and financial support of migrant students. They define academic migration as a viable boost of local and European economy and as a substantial cultural and social benefit for the host society. In the light of this, information about school programs, scholarships, internships, and other study opportunities should be widely disseminated and international promotion of the state and private university programs should be carried out. Long-term visa issuance with the possibility to stay for the period of at least 3-6 months after the end of the study should be guaranteed by law. Hungary also calls for the inclusion of "intercultural education" into the national curricula. The Slovak partners propose free higher education for foreigners with a state subsidiary protection as in the case of asylum holders. The Czech Republic

recommends an immediate reformation of the Visapoint system in order to reopen access for students in non-EU countries to the issuance of long-term visa for the purposes of study. The Slovenian government is recommended to revise the current provision of the new Law for Asserting Rights by the support of Public Funding which stipulates that the Slovenian citizenship is a prerequisite for any scholarship eligibility and to simplify the foreign education recognition procedure.

Partners:

Human Rights League, Bratislava, Slovakia



Institute of Public Affairs, Warsaw, Poland



Center for Independent Journalism, Budapest, Hungary



Peace Institute, Ljubljana, Slovenia



People in Need, Prague, Czech Republic



Project Coordinator:

Multicultural Centre Prague
Náplavní 1
120 00 Praha 2, Czech Republic
Tel.: + 420 296 325 345
e-mail: infocentrum@mkc.cz
www.mkc.cz
www.migraceonline.cz

