

**9th ASEM Conference of the Directors-General of Immigration
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Selection of labour migrants

During the ASEM-meeting in Goa in 2009, the participating member states agreed in the chair's statement that "improved cooperation to ensure better skills and credentials recognition (...) and ensure better matching of skill sets" is one of the main prerequisites to have an efficient labour mobility migration. Both sending and receiving countries have interest in determining a selection procedure for labour migrants which is beneficial for the migrants as well as for the sending and the receiving country.

The receiving countries need labour migrants for those jobs where the national labour market cannot provide the labourers with the fitting competences. The reasons for the imbalances are varying from country to country, depending on the population profile like age, educational level, ... and depending on the country's characteristics like development and industrial level. Engaging labourers from other countries to fill up the gaps is very beneficial for the receiving countries since it stimulates the further development of the economy.

The sending countries also have benefits when the labour migrants are leaving the country to go and work in the receiving country. At short term, the remittances that the labour migrant is sending to his family are beneficial on small scale to the local community. At longer term, the labour migrant can after return contribute in much larger extent to the development of his country.

One of the most important criteria for an efficient policy for labour migration is the selection of the labourers. During the 9th ASEM-meeting we would like to go into the different possibilities, with the advantages and disadvantages, for the selection of these migrants. Selection procedures in European and Asian countries are multiple, mainly depending on the profile of the labour migrant.

Organizing legal migration is an integral part of the EU's global approach on migration and the European Pact on Asylum and Migration. On European level, there are already systems in place for the labour migration of high skilled labourers. But in many European countries there are differences in procedures which are depending mainly on the educational profile of the labour migrant : high skilled or lowly skilled. For high skilled workers the European Union worked out a 'blue card' system. For low skilled workers, national procedures are put in place.

In practice the selection of high skilled workers is mainly based on very specific competences and experience. A company selects a third country national which is matching a very specific profile which the company is looking for, which cannot be found within the national labour market. In most cases, there are personal contacts between the company and the high skilled worker.

The selection of low skilled workers is more complicated, since not only the economical interests are an important factor but also the protection of the interests of the workers, who are often easy to deceive. The receiving country needs people that can do the work and are obeying the rules and regulations of the country whereas the sending countries want to have the guarantees that their citizens are well-treated and that the social laws are implemented by the receiving country. To have an efficient and transparent selection of low skilled workers, there are different systems that can be used and different conditions that can be put in place, all with their advantages and disadvantages. Selection can be done by:

1. the company in the receiving country selects itself a worker
2. a recruiting agency is selecting workers for a specific company or for a receiving country
3. the sending country selects the workers
4. independent organisations are selecting the workers

When a **private company** selects the low skilled worker, the main advantage is that the procedure is very quick. The company chooses a worker and arranges a working permit and visa. The disadvantage is that the sending and receiving states have less control mechanisms available that can detect possible problems in motivation of the worker but also problems towards the genuine intentions of the company towards the new engaged employee.

Recruiting agencies are specialised companies that are matching a demand and supply for labour forces. These companies can be very useful since they have a good knowledge of the own local availabilities in labour supply. A disadvantage is that many of these recruiting agencies are only interested in the financial benefits and are often engaged in facilitating pseudolegal migration by arranging working permits and visa for people who have enough money to pay for this service but whose sole intention is to obtain the visa.

Another possibility is that the **sending country** is making the selection of the workers that are demanded in the receiving country. The state control towards this selection ensures that the selection procedure is objective and transparent, as well towards the migrant as towards the receiving country. The disadvantage of this procedure is that only in the case where two states are agreeing upon the engagement of labour migrants, the state can itself select the workers.

Where nor recruitment by the state nor recruiting agencies nor private recruitment are possible, **independent organisations** can also assist in the engagement of workers. If these organisations have an extensive knowledge in labour migration and are aware of the loopholes of migration, they can also be eligible for the selection of labour workers.

Also the receiving country has its obligations in order to avoid the economical exploitation of the foreign employees. In lots of countries, there are legally binding regulations on labour contracts, minimum income, working hours, health insurance etc. There should be **control mechanisms** put in place to detect possible problems. These problems can go from not respecting all conditions of the labour contract but also can escalate to serious offences like forced labour, no payment, In these situations, the rights of the worker should be respected by the receiving country and there should be legal possibilities to act against the employers who intentionally are abusing the vulnerable situation of their workers. These measures can go from financial to judicial repercussions. It is also very important that these workers know about their rights so the accessibility to correct information from the authorities but also from NGO's or international organisations should be guaranteed.

In this context, it is also very important that knowledge about these 'bad' employers, is shared with the other authorities, especially in exploitation cases where companies did not respect the basic rights of the employees and where recruiting agencies did the selection without checking the welfare of the migrants. Authorities should have national contact points where this information can be exchanged. Only in this way, we can avoid that recruiting agencies continue to send people and that 'bad' companies continue to recruit employees from the same country or other countries.

Embassies can also play a specific role by detecting suspicious companies and agencies since they are evaluating the conditions for entry. They have to control the authenticity of the documents and see where additional checks have to be done. Next to that, they often also have the possibilities for personal interaction with the labour migrant and in case where there are doubts, they can question the migrant about the working conditions (contract, payment, insurances, living costs, ...). In this way, they can detect possible abusive situations and take necessary measures together with the own national authorities (towards the company) and with the authorities of the country where the embassy is situated. In these situations, the national contact points could also play an efficient role.

To conclude, it is obvious that labour migration is beneficial as well as for the sending country as for the receiving country. This economical interaction is a worldwide phenomenon which will only get more important in the future since the mobility of people is increasing. Essential is that the selection of workers is done in a transparent way and that companies which are engaging foreign workers, are checked efficiently. Information sharing within a country but also between countries is one of the essential measures to be taken.

questions

- Which selection procedures is your country using to engage / send lowly skilled labourers?
 - o Selection by foreign company
 - o Recruitment agencies
 - o the sending state is selecting
 - o independent organisations (national / international)

- others: ...

- Does your country have legally binding regulations for foreign workers on:
 - Labour contracts
 - Minimum income
 - Working hours
 - Health insurance

- Does your country have the possibility to take measures against employers who are exploiting foreign workers?
 - No
 - Yes → financially
 - judicially