

The Future of Legal Migration in the EU

IOM Contribution to the EU Public Consultation

21 December 2020

Introduction

The release of the New Pact on Migration and Asylum offers a renewed opportunity to rethink the EU's labour migration policies. The International Organization for Migration (IOM) welcomes the EU's invitation to contribute to the public consultation on the future of legal migration. **IOM is hopeful that this exercise will feed into an enhanced EU framework on legal migration conducive to mutually beneficial and sustainable labour migration pathways to Europe and that guarantees the protection of migrant workers.** IOM's submission to this public consultation proposes key considerations for an effective labour migration policy framework in the European context, building on the Pact's proposals.

KEY RECOMMENDATIONS

- Extend proposals linked to the admission and hiring of highly skilled workers, to low and medium-skilled workers and promote entrepreneurship pathways as an additional legal pathway to attract skills and talent to the EU;
- Leverage Talent Partnerships with third countries to ensure that labour migration schemes are truly mutually beneficial to all parties involved and harness the developmental potential of labour and skills migration;
- Adopt a skills-based approach to mobility partnerships that center at their core demand-driven skills matching and skills development opportunities for migrants and their local communities;
- Foster ethical and fair recruitment of migrant workers in countries of origin in line with international standards;
- Protect migrant workers against exploitation and guarantee decent working conditions, including through effective remedy and redress mechanisms;
- Anticipate risks to and opportunities for migrant workers in the context of the EU's green and digital economic transition;
- Link labour migration policy to broader social inclusion processes to ensure that migrant workers are integrated in European societies and retained within European labour markets.

Context

As an **ageing continent forecasted to undergo a sizeable population decline** in the years to come, Europe is facing a **rapidly shrinking workforce** which, if not duly addressed, can give rise to acute labour and skills shortages across critical sector areas in the short to midterm; thereby affecting its economic growth and productivity in the longer term. At the same time, many regions in the Global South are projected to experience exponential population growth, and higher unemployment rates. Against this backdrop, sustainably **sourcing labour force from abroad through effective labour and skills mobility schemes comprises an important policy solution** for the EU and its Member States. In a global context of fast paced and highly competitive market economies, it is in Europe's interest, as a bloc, to render itself more attractive to labour migrants and foreign talents.

With the COVID-19 pandemic affecting the entire continent, Europe is also coping with an unprecedented socioeconomic crisis, affecting the structuration of labour markets and disrupting supply-chains globally. With migrant workers being highly represented in critical sectors – including the agricultural, food-processing, transport and care industries – the **COVID-19 pandemic has pointed to the essential nature of the contribution of migrant workers at all skill levels to the EU's economy.** At the same time, the pandemic and economic crisis it sparked has rendered some migrant workers in Europe jobless, without work permit and sometimes unable to return to their country. In some

countries, this has generated a set of temporary regularization measures protecting migrants against falling into a “no-mans-land”; and in others, exposed them to administrative insecurity, the risk of de-regularization and exploitation within the informal economy. Taken altogether, these developments call for a whole-of-society approach to Europe’s socio-economic recovery which closely integrates labour migration processes in its plans to ensure that migrants are given the opportunity to contribute to Europe’s recovery and long-term economic prosperity.

IOM believes that **well-managed labour migration policies and programming can serve as an effective tool** for EU Member States to address shortages in their labour markets and boost the EU’s economic productivity. For countries of origin, they can reduce the stress of national unemployment or underemployment, and contribute to development through remittances, transfer of skills, and the creation of business and trade networks. To that end, **strengthened partnerships between the EU and third countries are essential**, if not a precondition.

IOM’s policy approach to labour migration

IOM recognizes that a successful labour migration policy is necessarily:

- **Long-term:** labour migration policy planning must focus not only on the short- and medium-term but also on the long- term horizon. The impact of factors linked to the future of work such as the globalization of labour markets, market automation and digitalization, and the transition towards greener economies, must be analyzed and incorporated into policy and planning.
- **Labour-market responsive:** effective labour migration policies are evidence-based and take into account accurate and reliable labour market data both in countries of origin and destination. Appropriately assessing labour markets in countries of origin, avoids schemes that could lead to causing brain drain while the strong involvement of the private sector, from conception and throughout implementation, ensures that employers’ real needs are met. Sound data is also key in building public confidence on labour migration and its positive socio-economic impacts.
- **Rights-based:** labour migration policies must integrate considerations linked to migrant workers’ human rights and labour rights and ensure they are upheld throughout the migration cycle. Sustainable schemes are grounded in fair and ethical recruitment, guarantee decent working conditions and protect migrant workers against all forms of exploitation.
- **Mutually beneficial:** holistic labour mobility schemes are multisided and rely on strong partnerships between countries of origin and destination. Cross-regional collaboration can ensure that labour migration schemes do not only benefit host countries but also source countries, migrants themselves and their communities. Such benefits could be achieved through local skills development initiatives, the establishment of skills partnerships as well as knowledge and remittance transfer mechanisms.

Key considerations for a successful EU labour migration policy

The New Pact on Migration and Asylum provides a renewed impetus for the EU to reframe and strengthen its labour migration governance framework. Building on the Pact’s proposal to attract skills and talent to the EU, **IOM proposes seven key recommendations** for a holistic EU policy on labour and skills mobility:

1) Promoting legal pathways to Europe for migrants at all skills levels

While IOM welcomes the Pact's proposal to create an EU-wide Talent Pool to better identify highly qualified foreign skills to match labour market needs in the EU, **IOM recommends the EU to consider legal pathways for migrants at all skill levels, including low and medium skilled workers.** In fact, as EU labour market assessment studies have shown, the majority of labour shortages and occupational vacancies within EU labour markets concern low to medium-skilled occupations. As such, viable and flexible legal pathways to Europe for prospective migrant workers at all skill levels are necessary to cater to employers' needs. The absence of such pathways, particularly in light of the increasing skills shortages within the EU, may push employers to rely on irregular migrants and engage with the informal economy to fill out existing shortages. This may in turn lead to a higher preponderance of migrant workers entering the informal economy without contract, exposing them to job insecurity, questionable working conditions, and abuse; and may potentially work as a pull-factor for further irregular migration, exposing migrants to further risks.

In that context, it is also important to note that even when legal admission channels exist, cumbersome and lengthy immigration procedures may still discourage employers from lawfully recruiting from abroad in response to their labour needs, particularly if the needs are temporary. The EU should therefore **work closely with its Member States towards the optimization of labour migration procedures** so that they are clear, time-bound and efficient for employers.

Finally, IOM regrets the absence of reference in the Pact's proposal to attract entrepreneurial talent and invites the EU to consider the potential of migrants to contribute to the EU beyond their capacity as workers. In fact, migration may contribute to the creation of new economic synergies, jobs and growth in the European economies, as migrants are not only workers, but also employers, entrepreneurs and investors. A sound EU legal migration package should therefore **consider the entrepreneurial potential of migrants and create pathways that attract entrepreneurial talent** to the bloc.

2) Harnessing the developmental potential of labour migration

EU skills and labour migration policy planning should **take a long-term policy vision that takes due account of migration's development impact**, synchronizing with the sustainable development goals of the 2030 Agenda. While the skills dimension of migration governance has evolved from one-sided migration schemes to skills partnerships more closely linked to the labour market needs of participating countries, origin countries may still suffer adverse effects in the long-term. Such effects include brain drain phenomena that could cause severe deficits in labour market sectors and within services that are key to the socioeconomic development of source countries. To mitigate such risks, the **external dimension of migration policy should embody a spirit of genuine partnership with third countries** which recognizes a more active role for them and which centers development considerations in the very design of mobility schemes in view of harnessing the positive developmental opportunities that such schemes can offer.

In terms of opportunities, **labour mobility schemes should build in skills-transfer and reintegration components** whereby migrants are empowered to transfer skills and knowledge acquired back into their origin countries either upon return or in the context of circular migration schemes. Finally, mobility schemes could also foresee to create sustainable trade and commerce networks between destination and origin countries to facilitate exchange and identification of cross-regional investment and trade opportunities. The EU's intention to foster strong partnerships with third countries offers a plethora of opportunities, that, if well managed, can sustainably and simultaneously contribute to the development of the EU and its partner countries.

3) Enhancing cooperation with third countries through skills partnerships

IOM welcomes the Pact's proposal to establish Talent Partnerships with third countries, with the view to strengthen cross-regional cooperation in the field of labour migration and develop an EU-wide framework for labour and skills mobility. IOM's **Skills Mobility Partnership approach to labour migration, which is articulated around multi-sided stakeholder partnerships, can be a useful model for the EU to frame its Talent Partnerships.** The Skills Mobility Partnership model relies on formalized state cooperation between entities concerned by labour migration in origin and destination countries – from governmental authorities, to public employment agencies, the private sector as well as TVET institutions – to ensure that labour migration schemes are truly beneficial not only to destination countries but also to origin countries, migrant workers and their communities.

The gap between acquired skills and those in demand by employers is still one of the key barriers to both internal and international labour matching. In view of maximizing the potential win-win of labour and skills mobility for all parties involved, **skills development opportunities - both for migrant workers and the local communities from where they are sourced** – are at the heart of Skills Mobility Partnerships. To identify the right needs in that respect, Skills Mobility Partnership approach also heavily relies on **strong data collection and management systems** to ensure that skills development initiatives are demand-driven and responsive to existing and future labour market needs, both in origin and destination countries. To improve the quality of existing talent pools and truly match skills-needs in light of rapidly evolving economies, **links between labour mobility and education and employment policies also need to be further strengthened** to enable migrants' skill development and their best use. This entails continuous investment from the EU and its Member States in upgrading education systems within the EU and partner countries, to increase the regional and global pools of talent available.

4) Promoting ethical and fair recruitment practices

Recruitment is often the first step in the labour migration process and recruitment intermediaries play an important role in matching jobseekers with employment opportunities. While some operate in accordance with internationally accepted standards of ethical recruitment, **unethical practices also proliferate and include the charging of exorbitant recruitment fees to jobseekers, false promises of jobs, and misleading information on working conditions** – all of which can ultimately plunge migrant workers into debt bondage, exploitation and forced labour.

While IOM welcomes the Pact's proposal to enforce the implementation of the Employers Sanction Directive and to work more closely with the European Labour Authority, such measures do not **tackle risks of abuse and exploitation that can occur at origin.** Good regulation at origin and destination countries combined with mechanisms that recognize and reward good actors in international recruitment, should become a standard feature of any integrated and comprehensive migration management approach. Nevertheless, many countries of origin lack the institutional capacity within their recruitment sector, which may lead to unethical practices at the expense of recruited migrants. In this regard, the EU can **capitalize on its Partnerships with third countries to foster ethical and fair transnational recruitment practices.** With that in mind, the EU could also allocate funding to **support the independent oversight and monitoring of labour recruitment practices, the capacity building of labour recruiters** in partner countries and the **roll-out of certification programmes.** In this respect, IOM's International Recruitment Integrity System (IRIS), which functions as a voluntary multi-stakeholder certification process that promotes ethical recruitment through its standards of recruitment, can serve as a useful basis for the EU to build on. Finally, IOM also invites the EU to join its IRIS Global Policy Network – a forum which functions as a global vehicle for the identification, exchange and proliferation of good practices in the field of ethical recruitment.

5) Ensuring the protection of all migrant workers

Migrant workers, especially those in lower-skilled categories, are vulnerable to exploitation and rights-violation. Countless reports which have focused on the treatment of migrant workers have highlighted their exposure to threats and coercion, deception, fee-charging for recruitment and migration costs, passport retention, non-payment of wages and excessive working hours. These conditions have been **linked to various sectors spanning the agricultural and consumer goods sector as well as to manufacturing, construction, transportation, and broader service sectors**. Ensuring the protection of migrant workers is not only key in upholding their rights and safeguarding their well-being but is also a necessary ingredient to ensuring migrants' broader integration, workers' retention and the overall sustainability of labour and skills mobility schemes. In view of tackling those challenges, IOM encourages the EU to adopt a rights-based approach to labour migration which allots migrant workers' protection due consideration. To that end, IOM invites the EU to **consider policies and actions that prevent abuse, promote redress and empower migrant workers** in the face of abuse, exploitation and rights-violations, at all stages of the migratory process.

Finally, the exploitation of migrant workers can also be tied to the production of specific consumer goods and global supply chains. While substantial attention has been paid in recent years to working conditions in Asian factories producing goods for Europe, less awareness exists on similar worker rights violations that take place in the agriculture, construction, and other sectors. IOM would therefore invite the EU to **raise visibility around ethical consumption and the protection of migrant workers in global supply chains**.

6) Mitigating the impacts of a transitioning economy

The EU's efforts to transition towards a digital and green economy will inevitably result in the restructuring of labour market which will on the one hand, generate emerging occupations and the need for new skills; and on the other, dissolve existing occupations and the need for associated skills. While IOM welcomes the EU's intention to leverage its Talent Partnerships to attract highly-skilled foreign talents in supporting its transitioning efforts, IOM also encourages the EU to consider actions that mitigate the detrimental impacts that this transition will have on migrants already working in the EU. In fact, the EU's digital transition will likely cause massive job cuts in industries which currently rely on manual labour but which are likely to undergo automation (e.g. manufacturing sector), while its green transition will require mining industries to dissolve, both of which will especially affect lower-skilled migrants. **In parallel to attracting new skills, it will be important for the EU to support the reskilling of migrant workers into new occupations through activation strategies**. Finally, the EU's digital transition might also lead to a fast-paced growth of the gig economy and platform work, which often relies on the labour of migrant workers. Considering the unfavorable working conditions particular to platform work, IOM also invites the EU to reflect on measures that protect migrant workers in that context.

7) Linking labour migration to broader inclusion and integration processes

Given the long-term nature of Europe's skills needs, it is **important for the EU to not only attract migrant workers, but also to enable them to succeed, retain new skills and integrate in their communities and societies**. Negative perceptions of migration and diversity are still ubiquitous among European societies and challenge the capacity of governments to develop frameworks to sustainably manage migration and migrants' integration. Such attitudes both deter attraction and retention of foreign workers who are in a position to choose their destination, and hinder opportunities for socio-economic inclusion. For labour migration policies to be indeed sustainable, **actions that tackle discriminatory practices and guarantee the provision of long-term security for migrants**, notably through securing migrants' legal status and

possibility to unite with their family members; need to be closely interlinked, if not woven, into labour and skills mobility policies and processes. As such, the EU's capacity to enable best use of migrant skills and their long-term retention is closely linked to the **overall ability of the European societies to become more inclusive and to forge mutual trust**, cohesion, while also providing migrants with true opportunities to integrate.

Conclusion

IOM believes that **a comprehensive approach to labour migration is rooted in sound partnerships, considers all dimensions of labour migration and seeks to maximize the potential win-win of labour migration schemes for all parties** involved. Effective labour and skills mobility schemes center at their core labour-market responsive skills-matching and skills development opportunities – both for prospective migrant workers and their local communities. Such schemes also integrate the promotion of fair recruitment practices, decent working conditions and migrant rights' protection. To be sustainable, labour migration policies cross-fertilize with integration policies to ensure that migrant workers are included in broader social processes and retained. Finally, to maximize their positive impacts on third countries' development, labour mobility schemes should be streamlined into development cooperation. **IOM stands ready to support the EU and its Member States** in pursuing and strengthening the actions proposed in the New Pact on Migration and Asylum, for a more robust and complete policy response to labour migration in the EU.

Resources

[IOM, Skills-based Migration and Partnerships: Elements and Essential Pre-requisites](#)

This [paper](#) summarizes IOM's approach to skills-based labour migration, highlighting the need for a global approach to skilled migration, particularly in light of transforming labour markets, shifting workforce demographics and the growing mobility of workers. It elaborates on the advantages and challenges of a skills-based approach to labour migration recommends actions, tools and useful frameworks to scale up skills-partnerships at a global level, drawing from IOM's existing experience in that context.

[CEPS-IOM, Paving the Way for Future Labour Migration: A Belgian-Tunisian Skills Mobility Partnership](#)

This joint IOM-CEPS [paper](#) analyses the results of a skills mobility partnership between Belgium and Tunisia that offered Tunisian graduates internships in Belgium and job seeking support upon their return to Tunisia. This partnership highlights the importance of multidimensional cooperation between different stakeholders from both countries throughout the implementation of the project. Although limited in scope, similar pilot projects can scale into fully-fledged and structured skills mobility partnerships and the evidence base gathered from this experience could provide important insights for the design of the Talent Partnerships foreseen in the EU's New Pact on Migration and Asylum.

[IOM, Inclusion, Growth and Competitiveness: Future of Economic Migration in the EU](#)

In this [paper](#), IOM consolidates its reflections on the possible future directions of economic migration policies in the EU in light of the proposals included in the European Agenda on Migration and the previous public consultation on the EU's labour migration policies. IOM finds that EU economic migration policy needs to be grounded in the emerging realities of the regional and global labour market contexts and calls for new approaches that take into account cross-border mobility, inclusive employment and labour market participation among all groups of working age populations.

IOM, COVID-19: Policies and Impact on Seasonal Agricultural Workers

This [Issue brief](#) analyses the COVID-19 impacts on agricultural value chains disruptions and the repercussions these have had on seasonal migration flows and the livelihood prospects of seasonal agricultural workers. It looks at the different policy measures that have arisen to address these impacts, from regulatory measures to extend stay or facilitate admission, to more practical initiatives to address increasing xenophobia and to ensure agricultural workers' access to health and safety measures. Drawing on those, the issue provides policy recommendations on how to best tackle the impacts of COVID-19 on seasonal agricultural workers and the sector more broadly.

IOM, Montreal Recommendations on Recruitment: A Road Map towards Better Regulation

The [recommendations](#) are the principal outcome document of the global conference that IOM organized in June 2019, bringing together 100 policymakers and regulators from across over 30 countries. The document presents clear, practical guidance to IOM Member States to enhance recruitment regulation and migrant worker protection, and can be considered a cornerstone for IOM's IRIS engagement with governments. It covers a broad range of themes, including recruitment fees, licensing and registration of labour recruiters, inspections and enforcement, access to grievance mechanisms and dispute resolution, bilateral and multilateral mechanisms as well as migrant welfare and assistance.

IOM, Sustaining and Scaling Private Sector Engagement to Protect Migrant Workers

In this [paper](#), IOM presents its strategic framework in engaging with the private sector on areas related to labour migration and migrant workers' protection. It is intended to update Member States on recent initiatives and the Organization's approach to working with the private sector, primarily but not exclusively in the context of global supply chains. This approach is designed to promote safe, orderly and regular labour migration through a strategy that is multi-stakeholder, migrant worker-centered and rights-based. The document describes IOM's work in partnership with diverse stakeholders and anticipated future steps.



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