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ar Chiníochas agus Idirchultúrachas**

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Submission to the Department of Enterprise Trade and Employment

Issues and recommendations concerning the Employment of migrant workers in Ireland

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Background

It has been widely acknowledged that the rapid growth in the Irish economy in recent years has resulted in shortages, including skilled employees in sectors of the economy such as nursing, information technologies, and professionals involved in the building industry¹.

As a consequence many employers are now seeking to recruit employees from countries outside of the European Economic Area (EEA)². This has brought many challenges, including challenges to develop effective labour force schemes at a policy level and the challenges posed by the need to respond to increased cultural diversity in the workplace.

To facilitate the recruitment of suitably qualified people from non-EEA countries for designated sectors of the employment market, a working visa and authorisation scheme has been introduced³. This makes it possible for prospective employees with job offers from employers in Ireland to obtain immigration and employment clearance in advance from Irish Embassies and Consulates.

The new schemes does not replace existing schemes but is a faster and in many ways a more flexible alternative to the work permit procedure⁴, which continues to be available to employers in Ireland through the Department of Enterprise Trade, and Employment. The designated categories of employment under the visa/authorisation scheme are:

- Information and computing technologies professionals and technicians
- Architects; including architectural technicians/technologists
- Construction engineers and technicians
- Quantity and building surveyors
- Town Planners
- Registered nurses

In 2000 the Department of Enterprise Trade and Employment issued more than 18,000 work permits, representing a three fold increase on the previous year and almost 1,400 work visa/authorisations.

The role of the NCCRI

The concern of the National Consultative Committee on Racism and Interculturalism (NCCRI) in relation to the issues arising out of the employment of non-EEA employees originated from approaches from Irish employers, particularly those working in the health sector, to the NCCRI to provide anti racism/intercultural awareness raising training in the workplace. The NCCRI has undertaken such training with hospitals seeking to employ nurses, particularly from the Philippines, under the

¹ See, for example NESF Report No 19. Alleviating Labour Shortages. November 2000

² The European Economic Area comprises the EU member states, Iceland, Liechtenstein and Norway

³ Work authorisation is for holders of a passport from certain countries. Work visas are for holders of passports not included in the list of countries.

⁴ Work Permits are required by an employer to employ any person who is not a national of an EEA State. The work permit section examines applications from employers with a scale of fees ranging from £25 to £125 for the duration of one month to one year, which can be renewed.

work visa/authorisation programme and more recently the NCCRI has provided awareness raising programmes to three regional health authorities.

The NCCRI has played an active role in stimulating discussion and debate⁵ on broader issues in relation to migration policy in Ireland, including the potential impact of the harmonisation of migration and asylum policy in the European Union arising out of the provisions of Title VI of the Amsterdam Treaty⁶. The NCCRI will also be contributing to the discussion concerning the revision of Irish immigration and residence policy currently being considered by the Government through the preparation of an Immigration and Residence Bill.

As a consequence of these initiatives, the NCCRI organised two roundtable consultation meetings on the employment of people from non-EEA countries, involving representatives from Government Departments, ICTU, IBEC, individual employers and representatives from non-government organisations with the aim of discussing the issues for Irish policy and identifying possible next steps (see annex one for participation in roundtables).

Issues for Irish Policy.

Arising from the roundtable discussions, a number of key areas were identified which form the core of this submission:

1. **Recruitment.**
2. **Induction and Awareness Programmes.**
3. **Terms and Conditions of Employment.**
4. **Review of existing and development of new schemes**
5. **Related issues.**
6. **Proposed next steps.**

1. Recruitment

Bilateral agreements with source non-EEA countries.

The recruitment of significant numbers of people from sensitive employment sectors, such as health services, could impact adversely on the provision of important services in source non-EEA countries, particularly as Ireland competes with other countries in the global market for skilled labour from such countries. In response to such concerns, other EEA countries have drawn up bilateral agreements that have involved commitments to invest in training and employment infrastructure and supports in source non-EEA countries. It is advised that the Government consider developing bilateral agreements with source non-EEA countries, particularly where there is likely to be significant recruitment of migrant workers.

Recruitment costs should be borne by the employer and not the employee.

In principle, the cost of recruitment should be met by Irish employers seeking to recruit. Prospective employees in source non-EEA countries should not be expected to pay more than a nominal fee. Measures should be considered to ensure compliance with this principle, particularly through contracts with intermediaries based in source

⁵ Through on going initiatives with the Migration Policy Group based in Brussels

⁶ Both Ireland and the UK are exempted from the provisions of Title VI but have the right to opt in to particular measures.

countries and through bilateral agreements between Ireland and the countries concerned.

Adequate training and support of staff involved in the recruitment process.

Adequate training and support should be provided by employers for staff involved in the recruitment of non-EEA workers.

The provision of adequate information to the prospective employees.

Prospective employees in source countries must be given comprehensive, accurate and up to date information before they come to Ireland. There is both an equity and efficiency argument for the provision of such information as decisions based on poor information are more likely to result in employees returning to their country of origin.⁷

2. Induction and awareness programmes

Induction programmes

Many new employees from non-EEA countries will need supports when they arrive in Ireland. Many will be leaving families behind and will be uncertain of their future in Ireland and some will experience loneliness and homesickness. One key support strategy is the development of adequate induction programmes for the new employees once they arrive in Ireland, both in relation to their new employment and the new environment in which they are living. Some employers have provided temporary accommodation and other practical supports for migrant workers. Mechanisms for on going consultation with the new staff should also be identified.

Racism/Intercultural Awareness training programmes

The need for awareness programmes for existing staff is an important prerequisite to the successful integration of employees from non-EEA countries. Such training should be tailored to suit particular workplaces and should include awareness raising on the potential impact of racism and issues in relation to cultural sensitivity.

Standards of programmes

There is a need for guidelines to inform the content and delivery of induction and awareness programmes. These guidelines should be based on best practice already beginning to emerge from workplaces in Ireland and in other EEA countries.

3. Terms and conditions of Employment

Equality with existing staff

The general terms and conditions of the non- EEA employees must be equivalent to their Irish counterparts to comply with current Irish employment and equality legislation. Additional/targeted measures could be taken at national level and by employers at workplace level to inform non-EEA employees of their rights under this legislation.

⁷ One measure of good practice identified was the encouragement of prospective employees in the source country to talk directly with employees already working in Ireland.

Recognition of qualifications

The lack of recognition of qualifications of some staff from non-EEA countries is a potential barrier to their appointment to a grade/job appropriate to their skills and experience. It is recommended that a more pro-active approach to the recognition of qualifications at national level could overcome some of these barriers.

Ethnic equality monitoring and workplace policies

There is a need to develop ethnic equality monitoring to ensure that employees have equal access to promotion and training opportunities as existing staff. This issue needs to be monitored over the course of time to ensure that 'glass ceilings' do not emerge as barriers to the advancement of non-EEA workers. Appropriate policies should be developed within the workplace to accommodate equality and diversity.

4. Review of existing and development of new schemes

Among other issues, this section advocates that urgent consideration be given to revising the work permit scheme and/or introducing a range of other work permit/visa schemes to make the overall system more flexible than at present.

Revising the Work Permit Scheme

The primary purpose of the work permit scheme is to 'preserve available employment for Irish and other EEA nationals'⁸. The work permit scheme is by far the most used scheme, with some 18,000 permits issued in 2000. Work permits are held by an Irish employer, and not by the employee and there is no right to family reunification under the work permit scheme. This contrasts starkly with the rights of employees and flexibility to change employment inherent in the work visa and authorisation scheme and with the flexibility for asylum seekers who have the right to work in Ireland.⁹

It is recommended that the Government give urgent consideration to revising the work permit scheme. One way that that could be achieved is by bringing in new schemes or new categories of work permits.

Work permits issued 1996-2000

Year	Number	Increase
1996	3730	
1997	4476	746
1998	5630	1154
1999	6264	634
2000	18150	17516

Resources to process applications

The rapid increase in applications for work permits will have implications for all those responsible for processing such applications. Additional resources will be needed to ensure that there are no long delays in processing such applications.

⁸ Department of Enterprise Trade, and Employment information leaflet (currently being updated).

⁹ It should be noted that employers no longer require a work permit in order to take on an asylum seeker, instead all eligible asylum seekers (26 July 1999 decision) are issued with a letter confirming their entitlements to work.

Review of the Visa/Authorisation Schemes.

Although the work visa/authorisation system is basically one scheme, there are some anomalies between them, in particular the right to family reunification.

Family reunification

The right to family reunification varies between those with work authorisation and those with work visas. A holder of a work authorisation may be joined by their spouse and/or minor dependent children once the authorisation holder can show that they are in employment. The holder of a working visa must have been in Ireland for three months and have the expectation of at least a further year before they can be joined by their spouse and/or minor children¹⁰. Both categories must show that they can support their family members without recourse to public funds.

Validity of visas

It should be noted that in some other EEA countries and the United States equivalent schemes to the work authorisation/visa scheme are provided on a three-year basis. It is recommended that consideration be given to extending the valid time period for the visa /authorisation scheme in Ireland.

Categories of Employment

Consideration should be given to extending the categories of employment designated by the work visa/authorisation scheme. For instance the scheme does not at present cover paramedical staff, an area where there are growing skill shortages in Ireland.

5. Related issues

Freedom of Movement.

On a broader point, third country nationals legally resident in EU Member States, even those who have there for many years, are not accorded freedom of movement within the European Union. The NESF¹¹ noted ‘this is an obvious source of rigidity within the EU labour market. This issue will be considered under Title VI of the Treaty and it merits a positive approach from Ireland’

The inclusion of the workplace in broader anti racism/intercultural strategies.

It is recommended that workplace strategies should be included in broader anti racism/intercultural strategies developed at national level, including the forthcoming national anti racism public awareness programme.

6. Proposed Next steps

The development of a code of practice.

On the basis of the issues and concerns identified this submission it is recommended that a code of practice should be developed in relation to the recruitment of workers from non-EEA countries. It is considered that the Department of Enterprise Trade, and Employment is best placed to develop such a code of practice.

¹⁰ Until recently the person with the working visa had to be in Ireland for a year. The three-month time scale has been introduced on a trial basis by the Minister for Justice, Equality and Law Reform.

¹¹ *ibid*

Establishing the work authorisation/visa scheme on a statutory basis.

The NCCRI welcomes the proposed establishment of the work authorisation and visa scheme on a statutory basis and recommends that the Government use this opportunity to improve and where appropriate, remove anomalies between the schemes and to bring in new schemes/categories within existing schemes.

Ratification of the International Convention on Migrant Workers

The Government should seek to ratify the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families was passed by the UN General Assembly in December 1990 (see annex two).

Inclusion of the rights of migrant workers in the reform of Immigration and residence legislation.

The Government is currently considering the reform of Ireland's immigration and residence legislation and due consideration should be given to the rights of migrant workers.

Summary of Advice

1. Recruitment

- Recruitment costs should be borne by the prospective employer and not the prospective employee.
- Employers, in association with the appropriate agencies, should provide adequate training and support of staff involved in the recruitment of migrant workers.
- Adequate information should be provided to the prospective migrant workers on which informed decisions can be made to seek work in Ireland.
- Bilateral agreements between Ireland and source non-EEA countries should be drawn up to ensure that there are reciprocal benefits for the country where people are recruited.

2. Induction and awareness programmes

- Employers should organise induction programmes for the new employees once they arrive in Ireland.
- Anti racism and intercultural programmes should be provided to staff.
- There is a need for guidelines to inform the content and content and delivery of induction and awareness programmes.

3. Terms and conditions of Employment

- Migrant workers must be employed on equal terms and conditions with existing staff.
- A more pro-active approach to the recognition of qualifications at national level is needed.
- There should be further development of workplace equality policies in association with the key relevant agencies.
- Ethnic equality monitoring should be introduced to ensure 'glass ceilings' do not emerge in respect of issues such as promotion.

4. Review of existing and development of new schemes

- The anomaly between the work visa and work authorisation in respect of family reunification should be removed.
- The work permit scheme is too inflexible and covers too many categories of workers. The scheme should be revised and preferably replaced by a range of different permit/visa schemes.
- In principle, migrant workers should be the holder of the work permit rather than employers. This approach has already proved successful with those who have work visas/authorisations and with asylum seekers with the right to work.
- Ensuring that there are adequate resources to process applications efficiently.

5. Related issues

- The issue of freedom of movement for 'third country' nationals will be considered under title VI of the Treaty of Amsterdam and it merits a positive approach from Ireland.
- The inclusion of the workplace in broader anti racism/intercultural strategies

6. Proposed Next steps

- The development of a code of practice by the Department of Enterprise Trade, and Employment.
- Reviewing existing schemes, identifying gaps and establishing the work authorisation/visa scheme on a statutory basis.
- The development of new schemes
- Developing mechanisms to consult with interested parties on these issues.
- Ratification of the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.
- Consideration of the issues raised in this submission in respect of the reform of Irish immigration and residence legislation.

Annex 1
Participants in the NCCRI roundtable:
Issues and recommendations concerning the
Employment of migrant workers in Ireland¹²

Anastasia Crickley	NCCRI
Peta Taafe	Department of Health and Children
Maureen Flynn	Department of Health and Children
Ann Judge	Office of Health Management
Catherine Lynch	NCCRI
Brendan Butler	IBEC
David Joyce	ICTU
Brian McCabe	Department of Enterprise Trade, and Employment
Brendan O Leary	Department of Enterprise Trade, and Employment
Wendy Fair	Irish Nurses Organisation
Kensika Monshengwo	NCCRI
Helen Harnett	Intercultural Consultancy
Gráinne O Boyle	Eircom PLC
Esther Lynch	ICTU
Juliette Cunliffe	'A Part of Ireland Now'
Deepak Inamdar	EU Migrants Forum
Linda Curran	Interact Ireland
Geraldine Regan	St Michael's Hospital, Dún Laoghaire
Christina Carney	Impact
Philip Watt	NCCRI

Annex Two

Ireland's ratification of the International Convention on the Protection of the Rights of all Migrant Workers and Members of their families

The International Convention on the Protection of the Rights of all Migrant Workers and Members of their families was passed by the UN General Assembly in December 1990 but has not been ratified by Ireland.

The International Convention is significant for a number of reasons:

1. Migrant Workers are viewed as more than just economic entities. They are seen as social entities with families and have rights accordingly;
2. They are seen as an unprotected population whose rights are often not addressed by receiving or sending states, and so the responsibility to provide measures of protection becomes that of the international community, through the UN.
3. It provides for an international definition of a migrant worker and the standards of treatment.
4. Fundamental Human Rights are extended to Migrant Workers and also additional rights recognising their unique situation.
5. The Convention has the potential to play a role in preventing and eliminating the exploitation of migrant workers and their families.
6. The Convention seeks to establish minimum standards of protection for migrant workers and their families that are universally acknowledged and serves as a tool with which to encourage those states lacking national standards to bring their legislation in closer harmony with recognised international standards.