



## Report

# Expert Meeting on Labour Migration: Practical Aspects of Admission and Control

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6-7 May 2015  
Minsk, Belarus



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## EXECUTIVE SUMMARY

Nearly 50 experts and officials from Eastern Partnership countries, EU Member States, academia, civil society and international organizations came together in Minsk on 6-7 May to compare their practices in labour migration, focusing on the aspects of admission, protection and control. The two-day expert meeting of the Eastern Partnership Panel on Migration and Asylum was hosted by Belarus and Latvia this time. Different views and approaches to labour migration procedures were expressed during lively, dynamic and professional discussions of the participants.

Welcoming remarks by the European Commission (EC), Deputy Minister of Interior of Belarus and Deputy Head of the Office of Citizenship and Migration Affairs at the Ministry of Interior (Mol) of Latvia highlighted the opportunity to look at labour migration aspects from different angles and discover benefits of labour migration in a long-term perspective for both sending and receiving countries.

IOM opened the session on the procedural aspects of labour migrants' admission by presenting national practices in this sphere as gathered from the participating states before the meeting. The following presentations by the representatives of the Mol of Latvia, Hungary and Belarus described in detail how the national admission systems function, which procedural steps should be taken by an employer and an employee, what types of work permits exist and which labour migration management tools are used. All three presentations highlighted how admission procedures linked to the national contexts and concrete challenges of the countries in terms of labour migration.

Regarding the admission of specific categories of labour migrants, the EC, whilst giving an introduction to the regulatory framework and the practical experience of the EU, highlighted the importance of facilitation of legal ways of labour migration, as well as building partnership and trust. Two examples of EaP experiences in specific admission procedures were presented by Moldova and Azerbaijan. In line with the EU practice, Moldova has introduced a single permit, combining residence and work permits in one document, while Azerbaijan emphasized its national policies aimed at attraction of high-skilled workers.

Modalities of cooperation between public and private institutions in the recruitment process was also one of the highlights of the meeting. In this regard, Ms. Halina Komarouskaya, being attorney at Law of Minsk City Bar Association, explained her counseling practice and experience with migrant workers, showcased some concrete examples. Ms. Tesseltje de Lange from the Tilburg Law School, the Netherlands, as well as Mr. Aleksander Smirnov, representing a private recruitment agency, reported how a trustworthy relationship built between a state and private sector can serve as a guarantee of safe employment abroad. Belarus and Azerbaijan presented their national mechanisms for the protection of own nationals working abroad, while Mr. Nicolas de Zwager from the International Agency for Source Country Information (IASCI) stressed the significance of considering migrants' interests when designing migration policies. At the study visit to the Minsk Citizenship and Migration Unit, the participants learnt the practical aspect of day to day work of Belarusian officials issuing permits in the capital region of Minsk.

On the second day, practical problems and solutions regarding illegal employment were touched upon in the overview of the IOM and presentations by Belarus and Latvia, which highlighted that illegal employment of migrants cannot be viewed apart from the whole labour market processes. Sweden supplemented the discussion by describing its new guidelines for tackling illegal employment. Ms. Elena Nesteruk from "La Strada Belarus" and Ms. Zoriana Barchuk from Ternopil City Women Club, Ukraine, shared latest tendencies in fraudulent schemes used to recruit people for work abroad emphasizing increasing activity of such recruiters in social networks.



Finally, the Panel chair reminded about the forthcoming meeting on registration and integration of internally displaced persons and other migrants to take place in Kyiv in June 2015.



6 May 2015 – Day 1

## Welcome and Opening

**Mr. Robert Rybicki**, DG Home Affairs, European Commission, welcomed everyone, expressing gratitude to Belarus and Latvia for joint organization of the meeting. He highlighted relevance of the labour migration issues for both, EU MS and EaP countries, as they often face the same challenges. The meeting aimed at finding solutions to these challenges and discovering benefits of labour migration through open and friendly discussions. EU migration policy remains one of the most attractive for migrants. At the same time, the EU remains one of the major donors for migrants' countries of origin, trying to make labour migration useful in a long-term perspective.

**Mr. Nikolay Melchenko**, Deputy Minister of Interior, Belarus, greeted the meeting participants on behalf of the Ministry and marked that the Panel meeting will contribute to better understanding of labour migration, improvement of existing national legislation and capacity building.

**Mr. Jānis Citskovskis**, Deputy Head, Office of Citizenship and Migration Affairs, Ministry of Interior of the Republic of Latvia, thanked everyone and highlighted the importance of EaP for Latvia. Development of cooperation with EaP countries is one of the national priorities. This Panel is a practical tool for building up the national labour migration systems and strengthening dialogue among the countries. He wished all the participants dynamic discussions and long-lasting partnership.

## Session I. Procedural Aspects of Admission of Labour Migrants

Facilitator: Swedish Migration Agency

**Ms. Olga Kulebyakina**, International Organization for Migration (IOM), Mission in Ukraine, presented the discussion paper, developed based on results of the questionnaires disseminated among participating countries prior to the meeting. A total of 15 countries provided their input. Questionnaire replies showed that different approaches are used at the national level throughout the EaP countries and the EU MS, reflecting general and specific admission criteria for labour migrants, cooperation between private and public sectors and protection of migrant workers' rights. Promotion of legal labour migration channels should be among the priorities for national policies, and can be achieved through close cooperation between countries, existing labour migration schemes, counselling opportunities and informed choices. A more detailed assessment is needed to ascertain if all specific needs and requirements related to labour mobility, such as data collection and analysis of labour migration trends, cooperation among countries and sharing best practices, institutional capacities and control mechanisms are taken into account. [Please see the presentation "Labour Migration: Practical Aspects of Admission and Control: National approaches and practices in the EU and EaP countries"](#)

### Discussion

*After the presentation of the discussion paper, **Sweden** added on a job-seeker visa, which is offered for 3 months to students. **Azerbaijan** highlighted that the country attracts both high-skilled and low-skilled labour migrants depending on the needs of national economy. **Estonia** mentioned low number of irregular labour migrants despite high number of labour migrants in the country. **Poland** stressed the importance of cooperation with relevant state authorities of the top countries of origin of labour migrants. **Ukraine** added on migrants' counseling provided by the State Migration Service and State Employment Service. **Moldova** informed about single permit procedure and shared national experiences of public-private partnerships.*

**Ms. Ilze Briede**, Head of Migration Division, Office of Citizenship and Migration Affairs, Ministry of Interior of the Republic of Latvia, presented legislative framework for admission of labour migrants in Latvia and its implementation in practice. Admission of labour migrants is regulated by the Immigration



Law which defines four basic types of foreigners' employment: 1) employment without restrictions, 2) employment with a specific employer, 3) employment for commercial activities and 4) employment for students. In order to obtain a residence permit, an employer has to register a vacancy and prepare an invitation, whereas foreigner in his/her turn has to apply for a visa and a residence permit. There are no quotas or any limitations at the Latvian labour market, but in order to employ a foreigner, an employer has to offer a salary corresponding to the average one in the country. Further developments in this sphere include work on the shortage lists, possibility of changing the employer after a while, as well as, procedures for seasonal workers and intra-corporate transferees. [Please see the presentation "Admission of Labour Migrants in Latvia: Legislative Framework and Practical Implementation"](#)

**Ms. Ágnes Töttös**, Migration Expert, Senior Counselor, Department of European Cooperation, Ministry of Interior of Hungary, continued with a presentation of Hungarian labour migration legal provisions and practices, focusing on categories of labour migrants, tools for managing labour migration and tendencies of labour migration. Citizens of the EEA and their family members require no authorization and do not need a registered vacancy in order to get employed. Third-country nationals require visa to work. In case a third-country national has residence permit, he/she can apply for a work authorization procedure. In order to be employed, the person has to fulfill both, immigration and employment criteria. Hungary applies lists of shortage occupations, but they are not used for managing labour migration. Labour market test is used for this purpose, as well as employment quotas, which in practice though do not restrict the number of admitted labour migrants. [Please see the presentation "The Substantive and Procedural Legal Provisions and Practice of Labour Migration Management in Hungary"](#)

**Ms. Natalia Kulbitskaya**, Deputy Head of the Sector on External Labour Migration of the Department for Citizenship and Migration of the Ministry of Interior of the Republic of Belarus, shared regulatory enhancement and labour migration procedures of Belarus. Labour migration policy is aimed at protection of national labour market, as well as employment of own nationals abroad. The Ministry of Interior is in charge of the policy development, while the Department on Citizenship and Immigration is implementing it. When going abroad for work, Belorussian nationals can apply on their own or use services of private employment agencies. Such license is issued by the Government for 10 years and constitutes a guarantee of safe and legal employment. Vast majority of labour migrants are headed towards Russia as construction workers, to Germany and the USA as participants of student programmes, to the Netherlands as programmers and to the UAE to work in services. The number of incoming labour migrants is constantly increasing, whereas the number of the persons going for abroad remains at the present level. [Please see the presentation "Practical Procedures in the Eastern Partnership Countries: Regulatory Enhancements and Practices" \(in Russian\)](#)

### **Discussion**

After the first session, **Moldova** raised the issue of private employment agencies monitoring in terms of demanding fees from the applicants for their services. **Belarus** answered that agencies have to provide draft of the contract with a client for verification to Mol. **Azerbaijan** asked regarding the fee for the work permit and **Belarus** answered that this fee is paid by the employer.

## **Session II. Admission of Specific Categories of Labour Migrants: EU and National Law**

Facilitator: European Commission

**Mr. Robert Rybicki**, DG Home Affairs, European Commission, presented legal framework for labour migration in terms of regulatory frames and practical experience of the EU. Facilitation of the legal ways of migration is crucial for the reduction of irregular migration. Labour migration is one of the priorities for the EU migration policy among such spheres as mobility, visa dialogue, international protection and border security. At the same time, it is one of the most challenging issues, as it requires greater coordination of efforts and there are no quick fixing mechanisms, thus, labour migration relies considerably on partnership and trust relations. In terms of labour migration, in its action the EU prioritizes such issues as 1) attraction of highly qualified workers, though keeping out from brain drain



from the countries of origin; 2) facilitation of employment of seasonal workers, making them profit from the rights they deserve; 3) smoothing intra-corporate transfers; 4) promoting opportunities for students and researchers in addition to the existing programmes. The EU Immigration Portal <http://ec.europa.eu/immigration/> is a tool offering variety of useful information for migrants. *Please see the presentation “EU Legal Migration Legislation”*

**Ms. Valentina Ungureanu**, Head of Migration Policy Division of the Ministry of Labour, Social Protection and Family of the Republic of Moldova, delivered a presentation on the attraction and admission of specific categories of labour migrants. The Law on Labour migration is a complex document determining all rights of and requirements for labour migrants. In terms of labour migration, Moldova is primarily a country of origin, although it is a country of destination for certain categories of migrants. There is a national one-stop-shop system, where all necessary documentation for employment of foreigners can be obtained. Moreover, there is a single permit, combining temporary residence permit and work permit. One of the priorities is attraction of people investing in the country, so procedures for this group of migrants is simplified. Seasonal workers and migrants from border regions are among the specific categories of labour migrants. *Please see the presentation “National Regulatory Framework as Regards the Attraction and Admission of Specific Categories of Labour Migrants” (in Russian)*

**Mr. Fuad Jabbarov**, Head of Labour Migration Sector of the Department of Employment Policy, Ministry of Labour and Social Protection of the Republic of Azerbaijan, continued with the national framework for admission of specific categories of labour migrants. Migration management in Azerbaijan includes such stages as analysis of migration processes, development of migration policy, and creation of regulatory frameworks and implementation mechanisms. Foreign labour force attraction is foreseen in the Migration Code and regulations on labour migration quota, whereas labour relations are regulated by the Labour Code and international conventions. A foreign national should be at least 18 years old, find an employer and apply for the work permit in order to get employed. Such categories of migrants as refugees, entrepreneurs, top managers of international organizations and spouses of the Azerbaijani nationals do not require work permit for legal employment. The labour migration quota defines maximum number of labour migrants based on the needs of national labour market and macroeconomic prognosis. *Please see the presentation “National Regulatory Framework and Practical Experience of Attraction and Admission of Labour Migrants in Azerbaijan” (in Russian)*

### Session III. Cooperation of Public and Private Institutions in the Recruitment of Labour from Abroad and to Work Abroad

Facilitator: Belarus

**Ms. Halina Komarouskaya**, Attorney at Law of Minsk City Bar Association, Belarus, shared her experience of the counselor practice with migrant workers. The main areas covered in terms of this practice include legal assessment and analysis of the labour agreements in the process of admission; legal assessment of taxation policies; provision of recommendations to HR departments regarding employment of foreign nationals, settling disputes and conflicts in court; and protection of workers' rights.

**Mrs. Tesseltje de Lange**, Senior Researcher, Department of Labour Law and Social Policy, Tilburg Law School, Netherlands, spoke on labour migration, labour market protection and agency work in the EU. When the employment agencies are active they play important role helping migrants to find a way to a labor market. At the same time, the rights of migrants are not always properly protected when dealing with employment agencies and this concerns not only low-skilled migrants. There are certain mechanisms in which cooperation of public and private structures can be a watchdog over the employment agencies. Employment agencies have to be registered. Being afraid of high fines, the agencies are checking on their partners. In certain cases, the agencies and employees agree on unlawful things, both accepting situation. Starting from school level everybody has to be aware of their rights as a labour migrant.



**Mr. Aleksandr Smirnov**, Lawyer, “JetExpo”, Recruitment agency, Belarus, presented activities of the recruitment agencies in Belarus. The Law on External Labour Migration was adopted in 2010. In order to operate, the private employment agency has to obtain a license. The license is a guarantee of proper employment abroad. The agency has to sign separate agreements with potential worker in Belarus and with a foreign employer. The agreement has to be registered in the Ministry of Interior (Moi). The agency also maintains the database of their clients. The agency cannot publish a vacancy announcement before prior approval of the controlling authority. Agencies also check and verify foreign employers. The agency has to inform the Moi on the departure of the migrant worker in five-day term. In addition, the agency has to notify a controlling authority upon the arrival of the migrant worker.

#### **Discussion**

**Lithuania** raised a question on difficulties faced when sending labour migrants abroad. “JetExpo” representative replied that in Lithuania admission procedures are very bureaucratic and take up to several months. **Moldova** asked whether in Belarus private employment agencies participate in settling disputes between employer and employee. The answer is that they participate, including via internet.

**Mr. Igor Bondarev**, Head of the Consular and Legal Department, Ministry of Foreign Affairs of the Republic of Belarus, reported on interaction between ministries, other institutions and private sector and workers. Tools used by consulates for protection of migrant workers abroad greatly depend on the national context and legal framework. 85,000 of Belarusian nationals are registered at consulates as of 2014. Diplomatic missions are commonly addressed with issues of lost documents. Considerable action is taken in terms of returning victims of human trafficking back to Belarus. In many cases the procedure of timely identity verification has crucial importance. Cooperation with international organizations and national institutions is very active.

**Mr. Nicolaas de Zwager**, IASCI Founding director, NEXUS Moldova Coordinator, delivered a presentation on the holistic solutions to circular migrant recruitment and related migration priorities, focusing on cooperation between the Moldovan government and the private sector through the NEXUS project. One of the main priorities of the project is to support efficient circular migration by focusing on accumulation and eventual transfer of wealth (financial, social, human capital) as the core motivation for circular migrants, rather than remittances. Remittances proved inefficient from a sustainable development point of view; neither are they considered investments by the migrant, but rather as a type of expense. The project uses evidence-based, client-centered, local-focused, public-private partnership approach. This facilitates benefits for all parties: Migrants, private and public sectors. More information about the project can be found at [www.nexusnet.md](http://www.nexusnet.md). [Please see the presentation “Providing Holistic Solutions to Circular Migrant Recruitment and Related Migration Priorities – Building Efficiencies in Public-Private Collaboration”](#)

**Mr. Fuad Jabbarov**, Head of Labour Migration Sector of the Department of Employment Policy, Ministry of Labour and Social Protection of the Republic of Azerbaijan, reported on the protection of citizens, their rights and interests when leaving for work abroad. In 1980s-90s the rates of external labour migration were high, whereas currently the rates are not massive and there is a trend of returning back of those who left. The main destinations of external labour migrants are Russia, EU, the USA and Turkey. Employment abroad is possible based on the direct invitation of the foreign employer or through the intermediary agencies. Such agencies have to be licensed by the state and are regularly monitored. The forms of international cooperation with regard to labour migrants’ rights protection include conclusion of the intergovernmental agreements and agreements or memorandums between responsible state bodies of different countries, as well as joining international conventions. One of such mechanisms ensuring protection of migrant workers’ rights is bilateral agreements with a number of countries. [Please see the presentation “Protection of Citizens, Their Rights and Interests When Leaving for Work abroad – Experience of Azerbaijan” \(in Russian\)](#)

### **Study Visit to Minsk Citizenship and Migration Unit**



The first day of the Panel meeting continued with a study visit to Minsk Citizenship and Migration Unit. The participants got an opportunity to learn in detail about the procedures of work permits issuance.

Representatives of legal entities from Minsk region which desire to hire foreigners apply in person, those from outside are consulted via internet. Once the application is submitted the records are put into the data base and the data is cross checked with other relevant data bases. Refusal rate is around 10%. Currently the procedures are facilitated for the Ukrainian nationals from Donbas region. The Unit also executes control and monitoring function, as well as registers agreements of the Belarusian nationals going for work abroad.

## 7 May 2015 – Day 2

### Session IV. Illegal Employment of Migrant Workers: Practical Problems and Their Solutions

Facilitator: Latvia

**Mr. Zeynal Hajiyev**, Head of the IOM Office in Belarus, spoke on the risks possessed by illegal employment. Illegal employment takes place when there is lack of information about opportunities of legal employment or its options are limited. Unofficial employment agencies do not guarantee legal employment, so asking for their registration documents is crucial. Before going to work abroad it is recommended to sign a contract, to check visa type and to explore context of the country of destination. Illegal employment is not reported to the state and is a major factor of black market. Cooperation between countries of origin and countries of destination is very important in fighting illegal employment. IOM works actively in the region promoting legal ways of labour migration, analyzing trends, developing legislation, building capacities, providing integration and reintegration assistance and protecting migrants' rights.

**Ms. Natalia Katsikava**, Senior Inspector of the Sector on External Labor Migration of the MIA of the Republic of Belarus, delivered a presentation on control mechanisms in case of foreign labour force recruitment and in case of going for work abroad. Department of Citizenship and Migration is in charge of prevention of and combating irregular external labour migration. Main control mechanisms applied to the organizations dealing with employment of foreigners in Belarus and employment of own nationals abroad include scheduled inspections, unscheduled inspections and monitoring. Employment of foreign workers is checked against availability of a special permit, legal grounds for stay and temporary residence permit. Employment of Belarusian nationals abroad is verified based on the data concerning the person who went for work abroad. The Department runs a hotline, providing information support for labour migrants. [\*Please see the presentation "Control Mechanisms of the Process of Hiring Labour from Abroad and Sending Labour Abroad" \(in Russian\)\*](#)

**Mr. Gerald Indriķis**, Deputy Head of the Riga Territorial Division of the State Border Guard, Ministry of Interior of the Republic of Latvia, in his presentation added on the control mechanisms of migrant employment process based on the Latvian experience. Illegal employment of migrant workers should not be viewed separately from the overall situation on the national labour market. Moreover, if the country has high risks of illegal employment in general, the risks for migrant workers are also high. Control over the process is a close cooperation of various authorities at different levels, involving border guard service in the process on the borders, as well as inside the country. Risk analysis reports, results of previous checks, mass media and data from other partners are the sources of information used by the border guards. In addition, information is verified through different national and international immigration related databases. The challenges faced in the process of control concern illegal employment, part-time employees, foreigners with other EU residence permit or visa, foreigners from visa-free states, and identification of victims of human trafficking. [\*Please see the presentation "Mechanisms of Migrant Employment Process: Problems and Solutions"\*](#)



**Ms. Elena Nesteruk**, Project manager “La Strada Belarus”, presented cooperation of public and private actors in terms of fighting illegal employment. Cooperation between state and private services takes place in two main spheres: preventive work and protection of migrants’ rights. The cooperation in terms of prevention of the illegal employment includes joint running of the national hotline, assistance with registration of projects, promotion of public advertisement, development of printed materials and sharing expertise at joint events. Initiating awareness raising campaigns and providing consultations through social networks, e-mail and website [www.lastrada.by](http://www.lastrada.by) are also active ways of reaching labour migrants. Cooperation with the Department on Citizenship and Migration is well established and based on the information exchange and sharing good practices. [Please see the presentation “Cooperation of State, Non-Governmental and Private Services” \(in Russian\)](#)

**Mr. Erik Rehó**, Swedish Migration Agency (SMA), delivered a presentation on preventive measures to tackle illegal employment. The labour market in Sweden is a flexible demand driven system requiring both high and lesser skilled migrant workers. SMA takes action in such spheres as investigation of seriousness of an employer, conducting controls upon extension of permit, revoking the permit, cooperation with other authorities and introduction of stricter investigation rules. Low incentive for the employee to report problem, absence of direct access to registers of other authorities and perception of the illegal ways of employment as adequate remain challenging. As for the future activities and counter measures, they include development of web based applications and bank-ID for verification of the employers’ existence, mandatory provision of information and extensive cooperation with trade unions. [Please see the presentation “Preventive Measures to Tackle Illegal Employment”](#)

**Ms. Zoriana Barchuk**, Ternopil city women club “Revival of the nation”, Ukraine, in her presentation touched upon preventive measures of tackling illegal employment abroad based on the Ukrainian experience. Tough economic conditions, low awareness on the legal ways of employment abroad, unbalanced migration policy and family violence are the main reasons of irregular labour migration. National toll-free hotline of migrant advice, which operates since 2006, is aimed at prevention of trafficking in human beings, counteraction of irregular migration, and facilitation of humane and orderly migration. The schemes used by intermediaries to engage potential labour migrants into a fraud include 1) provision of general consultative services instead of assist in finding actual job position; 2) accepting a fee from a person without further provision of any information; 3) non-existing/non-licensed private agencies which disappear once they receive money; 4) offering to issue a work visa without actual presence of a person in the consulate; 5) provision of misleading information that any visa type could be changed into a work visa once a person arrives into the country; 6) provision of misleading information that a visa for work in one country is suitable for work in a different one. [Please see the presentation “Preventive Measures to Tackle Illegal Employment Abroad: Ukrainian Experience” \(in Russian\)](#)

**Ms. Zane Rudzīte**, Desk officer of Legal and European Affairs Division of the Office of Citizenship and Migration Affairs, Ministry of Interior of the Republic of Latvia, presented results of the European Migration Network (EMN) conference, which addressed issues of attracting and retaining talent in Europe. The conference raised problems such as global challenges and competition over talent, readiness of the EU to attract talent vis-à-vis its main competitors, EU and national practices for attracting talent, retaining talent and importance of the welcoming culture, and benefits for the talented migrants and their countries of origin. The information about the conference and EMN is available at [www.emn.lv](http://www.emn.lv). [Please see the presentation “European Migration Network Annual Conference 2015: Attracting and Retaining Talent in Europe”](#)

## Closing Session

Facilitator: European Commission

**Mr. Robert Rybicki**, DG Home Affairs, European Commission, thanked everyone for organization and participation in the expert meeting. He reminded that the next Panel meeting will be dedicated to IDP issues and take place in Kyiv in June 2015.



**Mr Alexander Tatura**, Deputy Head of the Department for Citizenship and Migration of the Ministry of Interior of the Republic of Belarus, marked that the meeting was especially remarkable for Belarus, as Minsk has hosted the Panel for the first time. He stressed relevance of all presentations, as well as professionalism of the speakers, and thanked Latvia for co-hosting the meeting.

**Mr Jānis Citskovskis**, Deputy Head, Office of Citizenship and Migration Affairs, Ministry of Interior of the Republic of Latvia, thanked Belarus for hosting the meeting and underlined his positive impressions of the meeting discussions.

*All presentations mentioned in this report, as well as all the material related to the meeting, can be found on the Panel website [www.eapmigrationpanel.org](http://www.eapmigrationpanel.org)*