



# EU and US approaches to the management of immigration

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Raphaële Magoni (eds.)

## Ireland

Prepared by Tina MacVeigh  
Commissioning organisation NCCRI





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The Migration Policy Group (MPG) is an independent organisation committed to policy development on mobility, migration, diversity, equality and anti-discrimination by facilitating the exchange between stakeholders from all sectors of society, with the aim of contributing to innovative and effective responses to the challenges posed by migration and diversity.

This report is part of a series of 18 country reports prepared in the framework of the project *EU and US approaches to the management of immigration*, which was carried out by MPG with the support of the German Marshall Fund of the United States and in co-operation with partners in the European Migration Dialogue. Countries included in the project are Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Poland, Portugal, Spain, Switzerland, and the UK.

Reports on these countries are available from MPG's website individually or jointly, together with EU-US comparative perspectives and European comparative perspectives. See Jan Niessen and Yongmi Schibel, *EU and US approaches to the management of immigration – comparative perspectives*, MPG/Brussels, May 2003.

All papers were presented and discussed at a transatlantic dialogue meeting preceding the official launch of the European Migration Dialogue attended by Commissioner António Vitorino (Brussels May 2003).

Brussels/Dublin, May 2003

## Preface

The European Union and the United States are areas of immigration, and both are entities of multi-level governance facing the task of managing international migration. However, unlike the United States most European states do not consider immigration as a matter of national interest.

In the US a regulated immigration system aims to enhance the benefits and minimise the drawbacks of immigration. The country's bi-partisan immigration policy receives strong support from a wide variety of stakeholders.

In Europe the emphasis is on immigration restriction and prevention, reflecting the position of most stakeholders that the costs of immigration outweigh its benefits. Immigration is a sensitive and sometimes controversial issue, as is demonstrated in recent elections in a number of European countries.

On both sides of the Atlantic migration ranked high on the agenda throughout the nineties. Changes in the size and direction of migratory movements as a result of global developments, EU enlargement and NAFTA received a great deal of attention. The ways in which migration policies are designed and implemented were reviewed and underwent some important changes.

In 1997, the US Commission on Immigration Reform presented its final report to Congress, proposing important changes in US immigration policies and management.

In Europe the 1997 Amsterdam Treaty empowered the European Union's institutions to act on migration, changing intergovernmental co-operation among member states into the development of joint policies on immigration and immigrant integration. A new debate emerged on the role of immigration to address economic and demographic imbalances.

The events of September 11 did not in themselves have an impact on the foundations of immigration policies' governance structures, or lead to changes in them, other than those already proposed. The events added, however, a range of other issues to the overall policy agenda (issues related to the fight against terrorism became a top priority) and the immigration agenda (where security issues became a priority). This resulted in a stagnation of the further development of immigration policies (the best example probably being the US-Mexico migration agreement) and in a refocusing of attention on countering the victimisation of immigrants and the straining of community relations.

It is against this backdrop that MPG launched the project *EU and US approaches to the management of immigration* in an attempt to identify the main drivers of immigration management in EU and US systems of multi-level governance. Building on an understanding of how migration needs are assessed and translated into policy on the national or state level, the project focused on the way in which national or state governments promote their immigration related interests within the federation (in the case of the United States) and the Union (in the case of the European Union). How successful are the different entities in shaping common policies according to their needs? Do they consider centralisation (which the extension of EU powers suggests), or decentralisation (as the campaigns of some states for a greater say in immigration matters suggest) more useful for realising their immigration-related goals?

The reports on fourteen EU Member States, three candidate countries and one associated state each have four chapters:

- The first chapter reviews the (emerging) debates on migration and pays particular attention to the terms of the debate. It examines whether migration is debated in terms of control, security and restriction, or rather in terms of migration management and the assessment of migration needs. It asks whether the terms of the debate are different for different types of migrants, for instance irregular migrants vs. highly qualified migrants. The chapter analyses whether immigration has been linked with and embedded in larger discussions about social and economic policies for the future. In particular, it looks at the debates around the labour market and demography and considers whether and how immigration has been considered as an option for meeting emerging challenges in these areas.
- The second chapter provides an inventory of stakeholders and an analysis of their activities. It gives a detailed account of who is responsible for which area of migration management in the different government departments. It also covers the activities of the various non-governmental organisations active in this field. The central question is which groups (within government, employers, trade unions, NGOs, academics and other experts) assess national migration needs, which instruments and mechanisms they use to make these assessments, and how they assert influence in the political decision-making process to translate these assessments into policies.
- The third chapter provides an analysis of migration management in the areas covered by three of the most important Directives proposed by the European Commission (on admission for employment, family reunification<sup>1</sup>, and long-term residents). Rapporteurs compare the national legal framework with the proposed European measures, and assess the degree of convergence between the two. The chapter addresses each of the substantive points dealt with in the Commission's proposals and sets out the corresponding national provisions, if such provisions exist under the current system. Recent and impending changes of national law are also examined, with a view to assessing whether immigration management rules are moving closer to or further away from the proposed European legislation.
- The fourth chapter offers concluding remarks and evaluations by the rapporteurs. It addresses the Commission proposal for an Open Method of Co-ordination and considers whether such a mechanism would fit well with existing policy-making structures. Where appropriate, the chapter looks more closely at the proposed Guidelines and evaluates the degree to which they are already tackled in national policy. The impact of the European Employment Strategy on immigration management is also assessed. The fourth chapter also gives the rapporteurs an opportunity to make recommendations and to suggest alternative benchmarks for future debates and policy developments.

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<sup>1</sup> Reports were drafted before the definition of a common approach to family reunification, which Member States agreed to at the Justice and Home Affairs Council of 27/28 February 2003. Rapporteurs base their comments on the text of draft Directive COM (2002) 225, published on 2 May 2002.

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## Chapter 1: The terms of the policy debates

### 1.1. Introduction

Until the recent past, Ireland was typically a country characterised by emigration. Since the time of the Great Famine of 1845 – 47 to the 1950s, the natural increase in the population was offset by out-migration on such a scale that it led to an almost continuous decline in the population for more than a century<sup>2</sup>. The adoption at the end of the 1950s of new economic policies based on the encouragement of foreign direct investment from the multinational corporate sector led to a turnaround in the decade which followed, with increased job creation and a dramatic drop in out-migration. Ireland's accession to the European Community in 1973 even led to net in-migration, although this could be largely explained by the return of experienced Irish migrants to meet specific skill shortages in the Irish economy (MacEinri, 2001). However, EC restructuring policies together with poor economic management led to a substantial loss of jobs in the 1980s, which also coincided with the arrival of the baby-boomers of the 1960s onto the labour market. The result was a dramatic increase in the unemployment rate and an even more dramatic return to high emigration rates. In 1988 – 89 alone, 70,600 persons, or approximately 2% of the population, left (ibid).

The 1990s saw the emergence of a very different Ireland. The introduction of national collective bargaining agreements stabilised industrial relations. The investment that the State had made in education in the 1970s and 1980s resulted in a highly skilled labour force which, together with fiscal and other investment incentives<sup>3</sup> made Ireland a very attractive location for foreign investment, especially for sectors such as IT and pharmaceuticals. The resulting growth rates in the late 1990s, at more than 8% of GDP, were the highest in the OECD area. In the decade 1992 – 2000, almost half a million new jobs were added to the Irish economy, an expansion of 43% in the total labour force. The most recent data from the Quarterly National Household Survey indicates that in the twelve months to the quarter June - August 2002 employment rose by 8,200 or 0.5%. Unemployment rose by 7,200 to 4.6% while the labour force increased by 15,400 or 8%. The long-term unemployment rate for the same period remained unchanged at 0.2%. According to the Central Statistics Office the year-on-year increase in Gross Domestic Product (GDP) at constant (1995) market prices in 2001 was 5.7% while the corresponding increase in Gross National Product (GNP) was 4.6% (Department of Finance, February 2003). While problems of social exclusion and persistent long-term unemployment still exist, there is no longer a substantial reserve of unemployed persons waiting to enter the labour market. However, current global developments have had an impact on the growth levels in the economy. The Irish Economic and Social Research Institute (ESRI) have forecast real GDP growth in 2003 of 3.8% and of 3.0% in real GNP terms. They expect unemployment to rise sharply in 2003, indicative of the economy growing below its potential. The unemployment rate is expected to rise beyond 5.5% during 2003, averaging 5.2% for the year (ESRI, 2003).

Despite the economic slowdown of recent months, there is still a perception that economic growth in the years to come will continue to require growth in the available supply of labour. Key stakeholders within the workplace, including employer representative bodies, are anxious to both attract and retain staff recruited from abroad to fill skill and labour shortages. The Irish Business and Employers Confederation (IBEC) believe many employers are still encountering considerable difficulty recruiting staff with appropriate skills. They believe immigration will continue to be a feature of the Irish labour market going forward and have called for an efficient immigration system as necessary to Ireland's competitiveness (IBEC, 2002).

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<sup>2</sup> From 6.5 million in 1841 to 2.8 million in 1961 (MacEinri, 2001).

<sup>3</sup> In particular zero, and later, very low export taxes.

Traditionally, additions to the supply of labour have been drawn from increases in the participation of those outside the labour force<sup>4</sup>; the unemployed<sup>5</sup>; natural increases in the age cohort entering the labour force and immigration. Prior to the 1990s, few immigrants came to Ireland who, were not either of Irish or British background<sup>6</sup>. Non-EU immigration, the multi-national sector aside, was insignificant. Although there had been some previous cases, mostly refugees<sup>7</sup>, substantial non-Irish immigration is very recent indeed, arising only from the mid-1990s onwards, and, in the latter part of the decade, coupled with an increase in the number of asylum seekers.

Ireland thus experienced, within a short space of time, a substantial rise in non-Irish immigration, mostly from other EU countries, and a smaller but significant rise in non-EU immigrants, whether asylum seekers, illegal immigrants or immigrant workers on short-term work permits. The country has thus been faced with the difficulties of constructing immigration and integration policies against a background of a rapidly changing picture, limited experience, a less than positive attitude towards difference and a largely mono-cultural tradition. Apart from some arrangements made for asylum seekers and refugees<sup>8</sup>, it would be fair to say that there was little that could be described as an 'official planning process' on immigration (MacEinri, 2001).

At this time of actual and proposed new national migration legislation initiatives and developing policy discussions, the current account represents work in progress to which modifications and new dimensions will need to be added and which in some areas will be out of date by the time of publication. Further categories, such as students who are permitted to undertake up to twenty hours per week work, could usefully be included in the overview. Regarding general trends, it needs to be noted that current moves are towards the prioritisation of migrants from accession states rather than third country nationals to meet labour market requirements.

## **1.2. The terms of the policy debates**

Before considering policy responses to the economic migration of non-European Economic Area (EEA)<sup>9</sup> nationals, it is worth distinguishing the main types of immigration flows to Ireland and briefly summarising the relevant policy framework.

One may distinguish the following types of immigration flows:

- Return Irish migration
- In-migration from other EU and EEA countries
- Asylum-seekers
- Programme refugees
- High-skills in-migration from non-EEA countries
- Other in-migration from non-EEA countries

No immigration policy is necessary for the first two categories<sup>10</sup> while the third category, asylum-seekers, are not permitted to work while awaiting a decision in their asylum case<sup>11</sup>.

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<sup>4</sup> Especially women.

<sup>5</sup> Especially the long-term unemployed.

<sup>6</sup> Ireland has not, historically, received any significant immigration flows. It was a relatively poor peripheral European country with strong and sustained emigration, limited employment opportunities and no traditional colonial ties.

<sup>7</sup> Hungarians in 1956, Chileans in 1973, Vietnamese in 1979, Iranian Bahai in the mid 1980s and Bosnians in the early 1990s.

<sup>8</sup> Formal arrangements are now in place for refugees and asylum seekers. These are subject to continuing review and discussion.

<sup>9</sup> The European Economic Area comprises the EU member states, Iceland, Liechtenstein and Norway.



However, the case of asylum-seekers shall not be developed at this point as this report is primarily concerned with the management of 'labour-market' immigration flows. Thus the two remaining categories, high-skills in-migration from non-EEA countries and other in-migration from non-EEA countries, are the subject of a number of measures put in place by government to encourage specific categories of skilled workers from non-EEA countries, in addition to a short term permit programme for other non-EEA workers.

The Department of Justice, Equality and Law Reform<sup>12</sup> is the government department responsible for immigration legislation and control in Ireland and retains primary responsibility for matters relating to Ireland's immigration policy. The department is also responsible for the Irish contribution to the development of migration policies at the EU level. The Department of Enterprise, Trade and Employment is the department responsible for the issuing of work permits. The Department of Foreign Affairs is responsible for certain operational aspects of Ireland's visa and immigration regulations outside the country.

The most significant legislation governing the admission of foreigners into Ireland was the Aliens Act of 1935. The word 'alien' meant a person who was not a citizen of the Irish Free State. Rooted as it was in earlier British legislation, the scope of the Act was extremely wide-ranging and conferred sweeping executive powers on the Minister for Justice. The Minister had the right to forbid landing or entry into the State by any alien, to impose various restrictions on such persons as he saw fit, to forbid them leaving, to deport them, to require them to live in particular districts or places, to prohibit them from living in particular districts or places, and to require them to comply with particular provisions such as registration, change of address, travel, employment and other matters. The Minister had power to use the police, military and customs and excise to give effect to these regulations, to determine the nationality to be ascribed to aliens whose nationality was unknown or uncertain and to require hotel keepers and similar persons to keep records. In all cases, the onus of proof in the event of any contestation lay on the alien or alleged alien. The Minister did not have to give reasons for his decision and there was no appeal.

The Aliens Order 1946 further codified these provisions with a range of additional specific provisions. The powers given to police and other authorities were extended further, including the power given to immigration and police authorities to arrest a person without warrant if he/she was 'reasonably suspected' of having acted or being about to act in contravention of the Order.

Since that time, various measures have been introduced which defined new rights for certain classes of people wishing to come to Ireland. Thus, shared membership of the British Commonwealth, which ended on 1 January 1949 when Ireland declared a Republic and left the Commonwealth, and which allowed for freedom of travel, residence and work for Irish people in Britain (similar rights were accorded to British citizens in Ireland), was replaced within a few years by the Common Travel Area Agreement, which effectively reinstated the same rights even though no formal constitutional relationship existed any longer between the two jurisdictions. At the same time, close cooperation between the Irish and UK immigration authorities continued and deepened over the years. This effectively meant that, while Irish and British citizens were free to live, work and vote (except in Presidential elections in Ireland and in referenda) in one another's countries, there was also close cooperation and

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<sup>10</sup> The persons concerned have a more or less absolute legal right to live and work in Ireland, a right guaranteed by the Irish Constitution in the case of Irish citizens born outside Ireland, by the 1951 Common Travel Area Agreement in the case of British citizens and by the Treaties of Rome and Maastricht and other legal arrangements in the case of the citizens of other EU and/or EEA member States.

<sup>11</sup> There was a one-off decision to allow such a right on 26 July 1999, to asylum seekers who could demonstrate that they had been in the country for at least a year before that date.

<sup>12</sup> Formerly the Department of Justice.

coordination of the immigration and visa policies applied to would-be visitors from third-country states.

Such cooperation continues today, which largely explains why Ireland and Britain have jointly stayed out of most of the arrangements put in place after Schengen. For Ireland to become a part of Schengen while Britain stayed out would have raised extremely complex and probably insuperable issues for the control of the movement of persons between the two jurisdictions.

In 1956, the Irish Nationality and Citizenship Act (modified in 1986) codified rights to Irish citizenship through birth, descent and naturalisation, including the right to citizenship through an Irish grandparent. The Act created a general although discretionary eligibility for citizenship through naturalisation after a period of five years (with the exception of naturalisation through marriage, for which a separate regime applied). With Ireland's membership of the European Community on 1 January 1973 came the right of freedom of movement of workers and, more recently, the right of freedom of movement of all citizens of the EU<sup>13</sup>. Moreover, all citizens of EEA countries have had essentially similar rights since 1992.

In sum, therefore, one may distinguish two important and entirely divergent trends. On the one hand, a series of specific measures opened up the possibility of immigration to certain categories of foreign-born persons – those deemed to be entitled to Irish Citizenship, British citizens, citizens of other EU member States and citizens of EEA states. These persons all have the right to work in Ireland and no work permit is required.

On the other hand, Ireland had no traditional 'mother-country' ties to former colonies. No other immigration route into Ireland exists except for naturalisation, asylum, limited work permit and visa regimes (see below) and certain exceptional individual decisions made from time to time by the Minister of the day. The latter category included the introduction in the 1980s of a controversial 'passport for sale' policy for wealthy investors, since discontinued. In general, until the recent past, the economic climate in Ireland was not conducive to immigration.

In the case of naturalisation through marriage, it is instructive to note that the husbands of Irish citizens could only apply after being married for a period of some years (thus initially preventing them from competing for jobs in a market of scarce opportunities) whereas foreign wives were given automatic and immediate citizenship (possibly on the presumption that women would not enter the labour market in any event). This distinction was successfully legally challenged in the 1980s and led to the 1986 amendment already referred to, which applied a less liberal rather than a more liberal approach to both sexes.

In practice, therefore, the legislation from 1935 referred to above has remained in place for most would be non-EEA migrants. Concerns that the existing framework is unable to cope with the reality of modern immigration in Ireland have been articulated by a variety of sectors and by the Minister for Justice<sup>14</sup>. The Aliens Act of 1935 was more concerned with security issues than with the needs of the economy, which, based on the evidence presented in this report, has depended greatly in recent times on economic migrants as an essential source of labour supply. In 2002, 40,000 work-permits<sup>15</sup> and visas were issued, compared to only 6,000 in 1999.<sup>16</sup>

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<sup>13</sup> Treaty of Maastricht 1993.

<sup>14</sup> Migrant Information Centre, 2003.

<sup>15</sup> Including 16,000 renewals.

<sup>16</sup> [www.columban.com/mic](http://www.columban.com/mic)

The legislative framework provides that all non-EEA nationals require the permission of the Minister for Justice, Equality and Law Reform to work and/or reside in the State (Department of Justice, Equality and Law Reform, 2002).

The present Irish system for immigration by non-EEA economic migrants may be summarised as a two-tier regime<sup>17</sup>:

- (1) **Work permits**, which are granted for a maximum of twelve months and are only for specific posts – the employer must demonstrate that no EEA citizen was available for the post in question and it is the employer, and not the prospective employee, who must apply for the permit. Social and economic rights are limited. Work permit holders do not have the right to free medical care, social welfare entitlements or education. Moreover, there is no right of family reunification for work-permit holders. The individual to whom the work-permit has been granted is not permitted to sell his or her labour on the open labour market.

There are a number of exceptions, where a work-permit is not required by a non-EEA citizen, notably:

- Persons to whom the work-visa regime applies (see below).
- Persons who have been granted refugee status.
- Post-graduate students where the work is an integral part of the course of study being undertaken.
- Non-EEA workers legally employed in one Member State who are temporarily sent on a contract to another Member State<sup>18</sup>.
- Non-EEA nationals married to Irish nationals.
- Persons with permission to remain as spouse of an Irish national.
- Persons with permission to remain as the parent of an Irish citizen.
- Persons who have been given temporary leave to remain in the State on humanitarian grounds, having been in the asylum process.
- Persons who are posted on an intra-corporate transfer/secondment for a maximum period of four years to an establishment or undertaking in Ireland which is owned by a company or group which has operations in more than one State.
- Persons coming to Ireland from an overseas company for a maximum period of three years for training, whether or not it entails remunerated work, at an Irish-based company.

The work-permit section in the Department of Trade, Enterprise and Employment examines applications from employers and issues permits where appropriate. Given that it is pertinent for the Irish Government to ensure that employment is available for Irish and other EEA nationals, employers who apply for permits are required to establish that it has not been possible, in spite of reasonable efforts being made, to fill the vacancy with an Irish or other person for whom a work-permit is not required. A work-permit is granted when the employer has no alternative but to employ a non-EEA national.

A distinction is made between individuals who are 'visa required' and those that are 'non-visa required'. Individuals who come from certain countries who do not

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<sup>17</sup> Compiled from (Ward, 2001) and Department of Justice Equality and Law Reform, Immigration information leaflets.

<sup>18</sup> 'Van der Elst' case, 1994.

require a visa to enter Ireland are non-visa required<sup>19</sup>. While they still require a work-permit, there is no waiting period for family reunification. For visa-required non-EEA nationals, the waiting period for family reunification is one year.

(2) Applications for **working visas and work authorisations** are accepted from persons outside the country only and cover **certain high-skills categories** where labour in Ireland is in short supply<sup>20</sup>.

The relevant sectors which have been identified are:

- Information and computing technologies professionals
- Information and computing technologies technicians
- Architects, including architectural technicians/technologists
- Construction engineers, including engineering technicians
- Quantity surveyors
- Building surveyors
- Town planners
- Registered nurses.

This makes it possible for prospective employees with job offers from employers to obtain immigration and employment clearance in advance from Irish Embassies and Consulates. Applications for working visas and work authorisations are accepted from persons outside the country only. A working visa or work authorisation is usually valid for two years (three months in the case of a temporarily registered nurse) and authorisation to continue to work and reside in the country may be granted to a holder of either of them in Ireland at the end of the first period of their validity. Holders of working visas and of work authorisations are allowed to change their employers within the same skills category after arrival in Ireland as long as they continue to have authorisation to work and reside in the country. Work visa/work authorisation permit holders are permitted to bring dependents into the State to reside with them provided that they can financially maintain them, and that they have resided in Ireland for the required minimum period. Dependent children under the age of 18 are entitled to free primary and secondary education.

Work-authorisation is granted to non-EEA individuals from non-visa required countries seeking employment in the specific skills groups outlined above. There is no waiting period for family reunification. Work-visas are granted to non-EEA individuals who are visa-required. The waiting period for family reunification is three months.

Both these regimes are characterised by the fact that selection is entirely labour market driven. The potential employer effectively decides who, in the first instance, should be eligible to apply. Family reunification rights have limitations as discussed below. In both cases, social and economic rights are limited. Work-permit holders are restricted to the employer who sought the work-permit on their behalf.

While there is no formal policy or law on integration, provision is made on an administrative basis, for care and access to services. After a year, working migrants are considered

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<sup>19</sup> The list is quite extensive but, in addition to EU and EEA countries includes New Zealand, Australia, United States, and Canada. For a more extensive list see [www.justice.ie](http://www.justice.ie) 'Aliens Visas (No. 2) Order 2002'.

<sup>20</sup> The shortage of workers with key skills led to high-profile Government campaigns in 2000 and 2001 to attract suitably qualified workers. Irish businesses and employers have been actively recruiting outside of the EEA in recent years.

'ordinarily resident' for health care purposes but subject to a discretion based needs test. Currently, all immigrants in documented employment have access to social insurance payments and associated entitlements during their residence in Ireland.

The terms of the debate were, as is demonstrated, those of control, but issues regarding assessment of migration needs<sup>21</sup> and the emergence of migration policies based on management rather than control are now being expressed<sup>22</sup>. The NCCRI, through various partnership initiatives, conferences, submissions and publications supports the development of this discussion.

The Irish Government established the Task Force on Policy regarding Emigrants in December 2001 as commitments made under the Programme for Prosperity and Fairness. The report of the Task Force, published in August 2002, calls for a number of fundamental principles to be applied in the provision of assistance to the Irish abroad. These include transparency, accountability, consultation and partnership with official authorities and agencies in the host countries. It also calls for a holistic approach involving all government departments with coherence and flexibility in the application of agreed policy and practices. The findings of the Task Force are mixed. On the one hand there are positive stories of the contributions made by Irish people in all sectors of society and the enrichment they have provided to their adopted countries. However, there are also people for whom the experience of emigrating has been an unhappy one. It would be safe to assume that the same issues that apply to the experience of Irish emigrants abroad are relevant to migrant workers in Ireland. Thus, there are lessons to be learnt from the approach suggested by the Task Force, which could prove relevant for the development of immigration policies in Ireland.

### **1.3. Different terms for different types of migrants**

Two divergent approaches to immigration policy may be identified. On the one hand, certain policies allow for the immigration of certain categories of foreign-born nationals: those deemed to be entitled to Irish citizenship, British citizens, citizens of other EU member states and citizens of EEA states. These persons all have the right to work in Ireland and no work permit is required. By contrast, the only other immigration routes into Ireland are naturalisation, asylum, limited work permit and work visa regimes.

Irish immigration policy has developed in a piece-meal way over several decades. The country does not have a formal quota-based immigration policy with country quotas and only a few exceptions for special category immigration visas. Hence, the admission of immigrants has been market-led with the onus firmly placed on the employer to show that a particular individual or group of individuals was required and that no EEA persons were available and willing to do the job. A work-permit scheme inevitably ties an individual to a particular employer.

In addition to the two work permit schemes outlined above, the Intra-Company Transfer Scheme was introduced in 1999 as a facility whereby companies with a bona fide presence in Ireland and at least one other non-EEA country could transfer staff to Ireland for up to four years without a work-permit being necessary. Individuals being transferred were required to present an appropriate letter from the headquarters of the company to immigration officers upon arrival in the State. This concession was intended primarily to facilitate those international companies who needed to relocate key personnel to Ireland for a limited period of time allowing for the inter-company transfer of certain skills groups and training personnel. However, on 29 October 2002, the Minister for Enterprise and Employment, Mary Harney, announced the temporary suspension of the Intra-Company Transfer Scheme and non-EEA

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<sup>21</sup> Irish Business Employers Confederation and Irish Congress of Trade Unions.

<sup>22</sup> NCCRI: Migration Policy in Ireland: Reform and Harmonisation (December 2002)

trainee facility, pending review. The suspension was to have immediate effect as it was felt that the transfer scheme system had been open to abuse<sup>23</sup>.

#### **1.4. Immigration and larger discussions about social and economic policies for the future**

Irish immigration policy, for reasons already explained, has developed in a rather piecemeal way, over several decades. In effect, the admission of immigrants has been largely market led and administratively light.

The reform of immigration and residence policy in Ireland was announced in June 2001, when the Minister for Justice, Equality and Law Reform published a consultation document.<sup>24</sup> The subsequent overall legislation, although identified in the new Programme for Government<sup>25</sup> is, at the time of publication, being drafted and is not expected to be enacted for another six months to one year<sup>26</sup>. Some pieces of legislation referred to earlier and below have already been enacted or are in process through the Oireachtas. It is clear that, despite changes in the pace of economic growth and the impact of global events on forecasted growth, labour and skill shortages are and will be an important factor in shaping Ireland's immigration policy in the coming years. The most recent developments in migration policies have seen the introduction of new restrictions on the issuing of work permits to non-EEA nationals. In a statement made on 30<sup>th</sup> January 2003, the Minister for Enterprise, Trade and Employment, Ms. Mary Harney, announced that employers<sup>27</sup> would now be refused work-permits in cases where FÁS (The Training and Employment Authority) could determine that an adequate supply of local labour existed. The work-permit scheme, she went on to say, had been designed 'to meet demand for labour in circumstances where appropriate skills were not available locally' (Irish Times, January 2003). In situations where specific skills were determined by FÁS and the Department of Enterprise, Trade and Employment<sup>28</sup> to be in short supply, employers could continue to make work-permit applications. However, under such circumstances, the existing requirement for the employer to advertise the position locally with FÁS over an initial four-week period may be dispensed with.<sup>29</sup> In addition to prioritising local labour supply, priority was to be given to EU/EEA nationals<sup>30</sup>.

In response to these developments, the employers representatives, trade unions, sectoral bodies and several NGOs as well as specialised organisations are calling for a review of the latest restrictions, ratification of international conventions on the rights of migrant workers and

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<sup>23</sup> Irish Times, Friday 31<sup>st</sup> January 2003.

<sup>24</sup> Department of Justice, Equality and Law Reform, (2001). Public Consultation on Immigration. [www.justice.ie](http://www.justice.ie)

<sup>25</sup> Fianna Fail and The Progressive Democrats (2002). An agreed Programme for Government, pg 28.

<sup>26</sup> Department of Justice, Equality and Law Reform, 12<sup>th</sup> March 2003.

<sup>27</sup> Who make work-permit applications on behalf of potential employees to the Department of Justice, Equality and Law Reform.

<sup>28</sup> Labour Market analyses.

<sup>29</sup> This would apply to cases under the Work Visa/Work Authorisation scheme.

<sup>30</sup> Department of Enterprise, Trade and Employment [www.gov.ie](http://www.gov.ie) Press Release regarding changes in work permit rules - January 2003. Similarly, the 2002 National Action Plan on Employment notes the slowdown of the economy and stipulates two guiding principles for the Work Permit Scheme: 'to ensure that (i) all reasonable steps have been taken to ensure Work Permits are issued only in cases where an Irish or other EEA worker is unable or unwilling to accept the job (ii) the salary and working conditions applied to non-EEA workers are used in a manner which might confer an unfair competitive advantage'. All National Action Plans on Employment are available on the website of the European Commission's directorate for employment and social affairs, [http://europa.eu.int/comm/employment\\_social/news/2002/may/naps2002\\_en.html](http://europa.eu.int/comm/employment_social/news/2002/may/naps2002_en.html)

general reform of Irish immigration policy that would lead to improved planning and balance in the admission of non-EEA nationals to Ireland for the purposes of economic activity<sup>31</sup>.

### **1.5. Demographic projections and the migration debate**

There are several conclusions that could be drawn from the latest developments. However, the most obvious would appear to be that policy is developed on a reactionary and piecemeal basis. A review of the Irish Governments' National Development Plan<sup>32</sup> shows that, while there is an acknowledgement of the contribution made by non-EEA nationals to providing a crucial element of the labour force and hence sustaining economic growth, there is no inclusion of migration policies or the rights of migrant workers in the plan. The Economic and Social Research Institute have however produced working papers on these issues and the need for enhanced focus on migration issues is listed as a concern for the coming period in the National Economic and Social Council Report 2002 (discussed later).

For the most part the submissions made by the employers representatives and the trade unions have been based on discussion and interaction with members through task forces and sectoral committees. The conclusions drawn regarding labour shortages in their membership sectors are drawn from experience. Bord Glas<sup>33</sup> have recently completed a study, which clearly emphasises the recruitment difficulties faced by employers in the sector.

A report completed in 2001 predicted that 12,600 migrant workers, amounting to 88,000 over the next six years would be needed to meet labour supply demands. It is estimated that up to half of these would be returning Irish emigrants<sup>34</sup>. While there has been some concern that the recent economic downturn in the Irish economy will mean that these figures will need to be revised, it appears that the demand for migrant workers will continue and that urgent reform of policies are wholly justified.

There is little reliable statistical data on the number of EEA-nationals in the State for two reasons. Firstly, not all EEA nationals inform the Department of Justice, Equality and Law Reform of their presence in the State, as they are under obligation to collect such figures. Secondly, the Census of 1996 did not ask about nationality or ethnicity. Some indication of the changing national and ethnic profile of the labour force can however, be gleaned from the statistics of non-EEA workers.

The majority of non-EEA nationals working in Ireland do so under the work permit scheme, which is administered by the Department of Enterprise, Trade and Employment. The permits are granted to the employer and the Department, based on information supplied by the Employer, keeps a record of the country of origin of workers employed under the scheme. In 1999 there were 6,000 worker permits issued, 20,000 in 2000. By 2001 the figure had risen to 36,000<sup>35</sup>. Work permits issued in 2002 were 40,321 including 16,562 renewals which amounts to less new permits than the previous year possibly because of the renewals.

The NCCRI, Migration Studies Centre, Trade Unions, employers groups and non-governmental organisations have carried out some studies on the issue of immigration. These provide an overview of policy and deal mainly with policy related issues and are used in developing the migration debate. Apart from the Bord Glas survey of labour requirements in

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<sup>31</sup> Irish Congress of Trade Unions, Irish Business and Employers Confederation, Irish Farmers Association, National Economic and Social Forum, Irish Refugee Council, Migrant Information Centre, NCCRI.

<sup>32</sup> Government of Ireland, National Development Plan, 2000 – 2006.

<sup>33</sup> The Irish Horticultural Board.

<sup>34</sup> Irish Times, 24<sup>th</sup> January 2001.

<sup>35</sup> A significant proportion of the 36,000 permits in 2001 were from migrants renewing their work-permits. For more up to date information on work permits check [www.entemp.ie](http://www.entemp.ie)

the Horticultural sector, there has been little empirical investigation into immigration matters or labour requirements. The Central Statistics Office also compile data on immigration trends.



## Chapter 2: The Stakeholders

### 2.1. Governmental and non-governmental actors

The Department of Justice, Equality and Law Reform<sup>36</sup>, is the government department responsible for immigration legislation and control in Ireland. The department is also responsible for the Irish contribution to the development of migration policies at the EU level. The Department of Enterprise, Trade and Employment is responsible for the issuing of work permits. The Department of Foreign Affairs is responsible for certain operational aspects of Ireland's visa and immigration regulations outside the country. However, the Department of Justice, Equality and Law Reform retains primary responsibility for matters relating to Ireland's immigration policy.

The employer and employee representative organisations, namely Irish Business Employers Confederation (IBEC), Irish Congress of Trade Unions (ICTU) and individual trade unions as well as non-governmental organisations are involved in the economic immigration policy debate. There are quite a number of organisations that concern themselves with integration issues for the immigrant community as a whole, encompassing individuals entering for work-related purposes as well as asylum seekers.

The employer organisations respond to the issue of labour shortages experienced by their members and have called upon the government to address the issue of immigration policy as well as ratifying the ILO and UN conventions on immigration. Trade Unions have expressed concern about the unequal treatment of immigrant workers *vis-à-vis* pay and working conditions<sup>37</sup>.

### 2.2. Mechanisms through which stakeholders exercise influence

The Public Consultation Procedure on Immigration policies in June 2001 and the on-going Social Partnership process and direct submissions to and meetings with ministers constitute the main mechanisms through which stakeholders can conduct a dialogue with government on economic immigration policy issues.

On 13 June 2001 the minister for Justice, Equality and Law Reform launched the public consultation process on Immigration Policy. The consultation document identified a range of issues to be considered:

- Who should be allowed to reside in Ireland?
- How many people should be admitted through the immigration system?
- What entitlements should immigrants have?
- What immigration procedures are necessary?
- Illegal entry
- What general issues should be contained in the new legislation?
- Visas/Pre-entry clearance
- Administrative arrangements
- Entry controls
- Residence
- Enforcement

The public consultation process was undertaken to ensure that the views and opinions of as wide a section of Irish society as possible were taken into account in the ongoing development

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<sup>36</sup> Formerly the Department of Justice.

<sup>37</sup> 20% of non-EEA economic immigrants are members of trade unions in Ireland.

of immigration policy and in preparing the proposed immigration legislation. In addition to the public consultation, the International Organisation for Migration (IOM) was appointed to undertake a comparative study of international legislation and practice in the field of immigration.

A review of the Public Consultation Procedure has been published by the Minister for Justice. It provides a summary of the nature of the responses to the procedure and the number of submission from organisations/individuals. Submissions were received from 30 representative organisations and NGO's, 2 companies and 34 individual members of the public. In a statement made in July 2002, the Minister emphasised that the consultation process would be used as the basis for policy change<sup>38</sup>. New legislation has been drafted, but has not yet been published.

Although there has been social dialogue in Ireland since the late 1940s (when the first pay rounds were agreed), the involvement of the social partners in policy development increased during the 1980s, when the government took major new initiatives in what were called programmes for economic and social development leading to a system of Social Partnership and National Agreements. In this process, the social partners mean first of all the Government, the employers and the trade unions, secondly the farmers, and thirdly (but only in the two most recent programmes 2000 to date) the community and voluntary pillar. This latter is a grouping of non-governmental organisations representing the community sector, women, anti-poverty and equality groups as well as the unemployed.

Since 1986, The National Economic and Social Council (NESC) has produced five reviews of economic and social policy<sup>39</sup>. These reports have documented developments in the Irish economy and society, and provided a framework for the negotiation of the national social partnership agreements. The sixth report 'An Investment in Quality: Services, Inclusion and Enterprise' was prepared as the preliminary document to the current social partnership negotiations.

In this document, the NESC notes that non-EEA migrant workers have played an important role in enabling Irish growth rates to remain high, international companies to remain, public services to be improved and private services to be expanded (NESC, 2003). They recommend that the socio-economic conditions of non-EEA workers comply with national standards and that a clear national policy on migration from outside the EEA be implemented.

The document outlining the outcome of the social partnership negotiations, 'Sustaining Progress' reiterates the intention of government to revise economic immigration policies. There is a commitment to a 12-week review<sup>40</sup> involving the parties to the negotiations, which will focus on labour supply and workplace issues, as an input to economic immigration policy.

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<sup>38</sup> Speech made at the MacGill Summer School, 30<sup>th</sup> July 2002, Co. Donegal.

<sup>39</sup> A Strategy for Development 1896, A Strategy for the Nineties 1990, A Strategy for Competitiveness, Growth and Employment 1993, Strategy into the 21<sup>st</sup> Century 1996, Opportunities, Challenges and Capacities for Choice 1999.

<sup>40</sup> The programme was ratified on the 26<sup>th</sup> March 2003, however, at this time it has not been possible to obtain clarification on the status of the review.

## **Chapter 3: European legislative proposals**

### **3.1. Admission for economic purposes**

#### **3.1.1. Self-employment**

Under the current legislative framework, self-employed non-EEA nationals are treated under a specific set of regulations. Where they intend to come to Ireland in order to establish a business, applicants require the permission of the Minister for Justice, Equality and Law Reform to do so – Business Permission.<sup>41</sup>

In order to qualify for Business Permission, the following criteria must be met:

- a. The proposed business must result in the transfer to the State of capital in the minimum sum of €300,000;
- b. The proposed business must create employment for at least two EEA nationals for a new project or, at the very least, maintain employment in an existing business;
- c. The proposed activity must add to the commercial activity and competitiveness of the State;
- d. The proposed business must be a viable business concern that will provide the applicant with sufficient income to support themselves and any dependents without resorting to social assistance or work for which a work-permit would be required;
- e. The applicant must be in possession of a valid passport or national identity document and must be of sound character.<sup>42</sup>

Hence, the criteria for admission to the State on grounds of self-employment require a substantial financial investment on behalf of the applicant. There are exceptions to these criteria:

- Where the applicant has been resident in the state for over five years
- Where the application is justified under the terms of the European Council Resolution (1994) relating to admission of third country nationals for purpose of pursuing activities as self-employed persons
- Where the proposed business will add significant value through the contribution of highly specialised services which are in short supply
- Where the application falls under the terms of the Association Agreements between the EU and the countries of Central and Eastern Europe<sup>43</sup>.
- Where the applicant is a writer, artist or craft person.

#### **3.1.2. Needs tests and ceilings**

The granting of work-permits and work visa/work authorisation permits to non-EEA nationals is primarily driven by labour market considerations<sup>44</sup>. Individuals (who are entitled to family reunification) are permitted to bring dependents into the State to reside with them provided that they can financially maintain them, and that they have resided in Ireland for the required minimum period. Dependent children under the age of 18 are entitled to free primary and secondary education.

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<sup>41</sup> Non-EEA nationals exempt from the requirement to obtain Business Permission include persons who have been granted refugee status, dependent relatives of EEA nationals, persons with permission to remain as spouse of an Irish national or parent of an Irish born child, and persons who have been granted temporary leave to remain on humanitarian grounds, having been in the asylum process.

<sup>42</sup> Department of Justice, Equality and Law Reform – Information Leaflet Immigration No. 5

<sup>43</sup> Poland, Hungary, Bulgaria, Czech Republic, Romania, Slovakia, Estonia, Latvia, Lithuania.

<sup>44</sup> See Chapter 1, point 1.2. above

While there is no formal legislative framework outlining the conditions under which work-permits shall be curtailed, recent economic developments and perceived abuses of certain work-permit provisions have resulted in a tightening of controls in the existing process and suspension of the intra-company transfer programme.

Recent developments in Ireland in relation to the management of non-EEA economic migrants have included a temporary suspension of the Intra-company transfer and training schemes in addition to a tightening of controls on the employment of non-EEA nationals<sup>45</sup>. Most recently, on 7<sup>th</sup> April 2003, the Department of Enterprise, Trade and Employment, together with FÁS, announced changes to the operational arrangements of the work authorisation scheme. Occupational sectors were identified as ineligible for work permits for the period April 9<sup>th</sup> – May 30<sup>th</sup> 2003. These sectors included clerical and administrative, sales, transport and childcare workers, hotel tourism and catering and certain craft workers. The implications for the employment of non-EEA nationals are evident. Of greater concern are the implications for the renewal of permits, currently held by non-EEA nationals residing in Ireland.

### **3.1.3. Regularisation**

In practice, the question of leave to remain in the State in contexts other than the regular migration process arises most frequently (though not exclusively) in relation to those who have applied for and been refused recognition as a refugee through the asylum process (Ingoldsby, 2002). Where an individual has been refused such status, they are considered *prima facie* in the position of an individual who has entered the state illegally, or who would be refused permission to enter through regular migration channels. As such, a deportation order will be made. The individual concerned may make an application to the Minister for leave to remain on humanitarian grounds, which may be granted.

Individuals who have entered the State other than through the formal Work-permit/visa channels are encouraged to regularise their position by returning to their country of origin and re-applying through the formal scheme. The Department of Justice, Equality and Law Reform operates a voluntary return facility, however, individuals must pay their own travel expenses. The International Organisation for Migration also operates such a scheme and can provide assistance with travel costs.

Other cases, (for example those who have overstayed their visa or students who may take-up employment), are individually assessed by the Minister for Justice, Equality and Law Reform. It is at the Ministers discretion as to how these cases are resolved.

## **3.2. Family reunion**

### **3.2.1. Eligibility, waiting periods and conditions of stay**

A distinction is made between individuals who are 'visa required' and those that are 'non-visa required'. Individuals who come from certain countries who do not require a visa to enter Ireland are non-visa required. While they still require a work-permit, there is no waiting period for family reunification. For visa-required non-EEA nationals granted a work-permit, the waiting period for family reunification is one year.

Work-authorisation is granted to non-EEA individuals from non-visa required countries seeking employment in the specific skills groups outlined above. There is no waiting period for family reunification. Work-visas are granted to non-EEA individuals who are visa-required. The waiting period for family reunification is three months.

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<sup>45</sup> See Chapter 1, point 1.3. above.

The upper age limit for dependent children is 18 years of age. They are entitled to free primary and secondary education. The spouses of permit holders are not entitled to a work-permit in their own right. Applications must be made by the individual in their country of origin. It is proposed that the right of reunification is extended to unmarried partners and first-line ascendants in the proposed Council Directive on the Right to Family Reunification. This is not the case under the Irish legislative framework.

### **3.2.2. Standstill and deadline clauses**

There are a number of factors to be borne in mind in the formulation of Irish immigration legislation and policy. As discussed in earlier sections of this report, the legislative framework in Ireland needs reform to enable it to cope with the radical changes in in-migration (especially from non-EEA nationals) in recent times. The public consultation on immigration policies, the commissioning of the IMO study and the commitments made to immigration policies in the outcome of the social partnership process appear to be positive developments in this regard.

Ireland is to a certain degree constrained by the Common Travel Agreement (CTA) between the UK and Ireland. While this does not oblige the two countries to adopt exactly the same immigration rules, the maintenance of the CTA depends on there being a certain degree of policy alignment on the admission of third country nationals. Since the conclusion of the Amsterdam Treaty in 1997, there has been progress in Europe towards the creation of a common migration policy. Rather than be bound by all EU initiatives in this context, Ireland has negotiated a protocol whereby it may 'opt in' to certain measures. To the extent that it wishes to do so, its migration policy must comply with Community initiatives.

Ireland is also obliged to comply with its human rights obligations under international law, but to date has not ratified the UN or ILO conventions on the rights of migrant workers.

### **3.3. Long-term residence right**

#### **3.3.1. Granting of status and requirements**

There is no specific provision in Irish legislation for long-term secure resident status for non-EEA nationals. Non-EEA nationals who have legally resided in Ireland for at least ten years, and who have not been naturalised, may obtain permission to remain without condition as to time<sup>46</sup>.

Under current legislation, the following categories of persons may apply for long-term residence permission in Ireland:

- Spouses of Irish citizens who are registered or exempt from registration and in a subsisting marriage
- Persons who have been legally resident in Ireland for over five years may apply for permission to remain for up to five years
- Persons who have been legally resident for over ten years may apply for permission to remain without condition as to time. This only entitles the individual to unlimited residence. All of the other requirements *vis-à-vis* work permits, business permission, visas and registration still remain<sup>47</sup>.

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<sup>46</sup> Leave to remain is not defined in legislation, nor are the rules governing the exercise of Ministerial discretion. As a general practice, leave to remain is initially granted for one year and is subject to renewal. Under the Irish Nationality and Citizenship Act 1956, persons may apply for Naturalisation after five years of residence in Ireland. A separate regime applies to the acquisition of citizenship by marriage.

<sup>47</sup> Department of Justice, Equality and Law Reform – Immigration Leaflet No. 2.

However, in the case of individuals who hold work-permits, the granting of such permission is conditional on their remaining with the employer through whom the work-permit was obtained. In the case of individuals holding work-visa or work-authorisations, long-term permission to remain is granted on a two-year basis. They are permitted to change employer but must remain within the specific high-demand sector for which their visa/authorisation was approved.

### **3.3.2. Withdrawal of status**

Under Irish legislation, leave to remain can be revoked for reasons of National Security or Public Order which depending on the circumstances may or may not be stronger than the protection proposed.

### **3.3.3. Equal treatment provisions**

In Ireland, long-term residents are required to hold a work-permit, work-visa or work-authorisation as outlined in previous sections. In the case of minor dependents, there is entitlement to free primary and secondary education. The full economic cost of third level education must be borne by the migrant worker.

Given Ireland's history of emigration thus far, there has been no urgent need to develop a comprehensive integration policy for the country's own immigrants. Yet, while there is no formal policy or law on integration, provision is made on an administrative basis for care and access to services. After a year, working migrants are considered 'ordinarily resident' for health care purposes but subject to a discretion based needs test. Currently, all immigrants also have access to social insurance payments and hold the same rights and entitlements to social insurance as Irish contributors to the system.

Ireland also has considerable legislation and actions at a variety of levels to promote equality and equal rights, including anti-racism, towards a more inclusive and multi-cultural Ireland. The National Council for Curriculum Development is looking at ways of introducing multicultural studies into the regular school curricula. The Government's anti-racism awareness campaign, Know Racism, the NCCRI, Equality Authority and social partners initiatives around International Day Against Racism and Workplace Week Against Racism also contribute in this regard as do other projects and actions of minority, ethnic and community groups.

### **3.3.4. Comparison with the proposed directive**

A permanent residence category provides a number of benefits both to the individual and the administration. It gives individuals certainty about their duration of stay and allows them to arrange their affairs accordingly. Certainly for individuals is one of the major selling points in an institutionalised regime for permanent residence, and is an effective draw-card in attracting skilled labour to a country. Further, permanent residence promotes administrative efficiency.

These developments could only be of advantage to Ireland in attracting the labour supply needed to sustain economic growth in the coming decades.

The Commissions' proposal for a draft directive for the admission of third country nationals for the purpose of paid and self-employment proposes the establishment of a single work and residence permit for third country nationals, for a duration of three years. In Ireland, a distinction is made between specific sectors where there are shortages of labour supply and other sectors for which short-term work-permits are granted. It is only after five years that long-term permission to remain is granted, initially for five years and then after a further five years, for an indefinite period of time.

The transposition of the directive would require streamlining the divergent regimes in the Irish system and lengthening the duration for which non-EEA nationals are guaranteed an initial right of residence. It would require a medium-term approach to estimating labour supply demands. Please note that the recently enacted Employment Permits Act 2003 allows full access for national from the ten May 2004 accession states from that date.

## **Chapter 4: Recommendations and open method of co-ordination**

### **4.1. The open method of co-ordination**

The Open Method of Coordination (OMC) is an alternative to traditional community methods of regulations and directives. The OMC has been adopted in policy areas where a degree of coordination is required in order to achieve certain desired outcomes or goals, but where national initiatives are deemed superior to the supranational (Hodson and Maher, 2001). By setting common goals and operating a system of review, it is hoped that the OMC will prompt policy reform in Member States, where necessary. The Lisbon European Council, which could be said to have formalised a set of previous methods by naming them as the Open Method of Coordination, set out a number of stages, which should be followed in applying the method. These included establishing a common set of guidelines and indicators and translating these into action plans at the Member State level. These would, in turn, be reviewed in an annual process of monitoring, evaluation and peer review (NESC, 2002).

In the area of immigration policies, the proposed directives allow for some degree of derogation by Member States in the short term. However, there is significant convergence and harmonisation expected, ultimately, in national immigration policies. This will prove essential if, as provided for in the proposed directive on long-term residents, there is to be EU wide travel allowed for holders of long-term residence permits. In order for the policy implementation to be effective, a monitoring system with penalties for non-compliance will have to be put in place.

One of the basic principles of the open method is that it is 'open': there are no sanctions and no legal basis with which states must comply. Rather, there is peer review and where necessary, non-legally binding recommendations made on the performance of Member States. The application of the OMC in the area of migration is intended to support a legislative framework, which *has been approved* by Member States. In this regard, its application in the area of migration policies is more likely to be successful as there is a legal base. The areas which are to be reviewed under the open method are crucial to the implementation and success of migration policies in the Member States hence, the open method applied in this area could only strengthen and speed up the process of harmonisation in the area of migration policies.

Given the derogations or boundaries within which Member States may apply a degree of flexibility, the OMC certainly has the potential, at least in the short term, to prevent a significant degree of divergence in the policies of Member States. Ultimately, however, the effectiveness of the OMC in the area of migration policies will depend on the degree to which Member States are willing to initiate reform at the national level, and the degree to which 'soft' or 'hard' measures are applied in the process. Where the Community Guidelines on Immigration are successful in developing an effective approach to the management of the economic migration of third country nationals, the adoption of this approach and hence, the reform of national policies, is much more likely.

### **4.2. Concluding Comment**

As indicated in the introduction this report is presented as work in progress, addressing a rapidly changing situation. The focus of the template provided on economic migration precluded discussion of both refugee issues and movement from Northern Ireland to the Republic during the conflict there. Ireland, in a very short period, has moved from being a sending to a receiving country. Evidence from similar shifts in other European countries and demographic trends indicate that this move will be long-term. Discussions, debate and policymaking regarding immigration and integration are gaining momentum at all levels.



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The **National Consultative Committee on Racism and Interculturalism (NCCRI)** is a partnership of government departments, agencies and non-government organisations. It was established by the Department of Justice, Equality and Law Reform. NCCRI seeks to provide an ongoing structure to develop programmes and actions aimed at developing an integrated approach against racism and to act in a policy advisory role to the government. It also promotes a more participative and intercultural society that is more inclusive of groups such as refugees, Travellers and other minority ethnic groups. NCCRI aims to mainstream the commitment and expertise to address racism in policy making and implementation measures by government and into the approach and concerns of other relevant institutions. It supports the development of anti-racism policy and measures at the European, local and regional levels. NCCRI was established in July 1998. It has a staff of five and is assisted by its Members in different sub-committees.

[www.nccri.com](http://www.nccri.com)

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