EU and US approaches to the management of immigration

Jan Niessen, Yongmi Schibel and Raphaële Magoni (eds.)

United Kingdom

Anneliese Baldaccini
Joint Council for the Welfare of Immigrants (JCWI)

Jan Niessen, Yongmi Schibel and Raphaële Magoni (eds.)

EU and US approaches to the management of immigration

United Kingdom

Anneliese Baldaccini
Joint Council for the Welfare of Immigrants (JCWI)

With the support of the German Marshall Fund of the United States

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 Policy 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 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 Policy Dialogue attended by Commissioner António Vitorino (Brussels May 2003).

Brussels/London, May 2003

©Migration Policy Group

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[1], 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.

---

[1] 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.

Table of Contents

Chapter 1: The terms of the policy debates **1**

1.1. Introduction 1
1.2. The need for a modern immigration system 3
1.3. Discussing the benefits of migration 4
1.4. The politics of managing migration 6
1.5. The debate among key stakeholders 8

Chapter 2: The stakeholders **11**

Chapter 3: European legislative proposals **15**

3.1. Admission for economic purposes 15
3.1.1. Third country nationals coming for the purpose of paid employment 15
3.1.2. Third country nationals coming for the purpose of self-employment 19
3.2. Family reunion 21
3.3. Long-term residence right 25

Chapter 4: The Open Co-ordination Method 29

Chapter 1: The terms of the policy debates

1.1. Introduction

Public discussion of UK immigration policy in the decades immediately following the Second World War was dominated by the issue of race and ethnic origin[2]. During the course of the 1950s and 60s, concern about immigration was almost exclusively directed against citizens of African, Asian and Caribbean member countries of the British Commonwealth. The first major legislative acts which marked the commencement of immigration controls against Commonwealth citizens passed through Parliament in 1962 and 1968, and were directed against people from the Caribbean and the former British colonies and protectorates of East Africa.

At the time of the passage of the Immigration Act 1971, policy was based on the view that there was no longer a need for primary (economic) migration in the UK. Further, it was intended that secondary migration arising from family reunification could also be more strictly controlled through the use of immigration regulations which granted wide discretionary powers to immigration officials operating in diplomatic missions abroad, or at the UK borders.

Critical discussion on the history of immigration policies has often focussed on the emergence of a conceptual framework for the practice of immigration controls during this period that has survived right up to the present, when overt discrimination on grounds of racial origin is officially deplored. A conference of immigration policy experts in London recently examined the significance of the Commonwealth Immigration Acts as a major turning point in the development of the UK immigration policy[3]. Leading politicians of the day maintained that the sudden imposition of highly restrictive controls was necessary to improve race relations [4]. Although the ban on the immigration from the Commonwealth did not formally discriminate on racial grounds, non-statutory instructions to immigration officials in practice ensured that discretion would be exercised in distinguishing between 'immigrants of the good type from the Old Dominions' – whom the government did not really wish to keep out - and the 'problematic' coloured immigrant worker from the New Commonwealth[5].

During the 1970s and 80s, a limited amount of economic migration was permitted through the channels of a work permit scheme, which facilitated the admission of skilled workers in professions with acknowledged labour shortages. The need for short-term labour was met mainly though a Commonwealth working holidaymaker scheme, and an admissions procedure for Commonwealth citizens of British ancestry. In both cases the beneficiaries were almost exclusively citizens of such white Commonwealth countries as Australia, Canada, and New Zealand.

---

[2] Maurice Deakin, Colour citizenship and British society, 1970; Andy R. Brown, Political Languages of Race and the Politics of Exclusion, 1999; Zig Layton-Henry, The Politics of Immigration, 1992.
[3] Crossing Borders: The Legacy of the Commonwealth Immigrants Act, London Metropolitan University, 15-16 November 2002.
[4] Sarah Spencer, 'The Implications of Immigration Policy for Race Relations', in S. Spencer (ed), Strangers and Citizens: A Positive Approach to Migrants and Refugees, IPPR, 1994.
[5] Ann Dummett and Andrew Nicol, Subjects, Citizens, Aliens and Others, 1990.

This restrictive approach to economic migration continued through to the mid-1990s, when the authorities began to acknowledge changing labour market conditions and pressure for changes to immigration procedures. Employers' organisations operating in high prestige sectors of the economy made the case for more sympathetic consideration of the need to recruit foreign workers with a minimum of procedural impediment. The Labour government that came into office in 1997 initiated discussion on how the system might be reformed to meet the needs being expressed by employers.

However, whilst progress was being made in this direction, the government simultaneously sought to tackle forms of migration that fell outside the approved channels, in particular that of asylum seeking refugees who arrived in larger numbers from the late 1980s onwards. Even though these refugee movements contained a high proportion of people who had some experience of further and higher education, and others who were likely to find employment in sectors with acknowledged job shortages, the spontaneous and unregulated nature of their arrival was considered by the authorities to be a threat to the overall stability of the immigration control regime. The authorities have sought to maintain a marked distinction between skilled workers who have arrived in the UK by way of the asylum seeker route, and those who are eligible under one of the economic migration schemes.

The government ministry responsible for immigration policy, the Home Office, has attempted to pursue policies in recent years which have simultaneously sought to substantially curtail the rights of asylum seekers whilst at the same time expanding options for certain groups of migrant workers. This approach is presented as a 'modernisation' of policy, and its rhetoric is reproduced in the two recent immigration White Papers, which are discussed in detail below.

There is great scepticism amongst immigration rights NGOs about the viability of a modernising strategy that simultaneously promotes of negative views towards asylum seekers, whilst seeking the liberalisation of procedures for economic migrants. In recent months, Home Office spokespersons have reiterated their determination to maintain a rigid division between the rights of asylum seekers and other migrants in terms that often seem grossly disproportionate. Efforts on the part of employers to recruit skilled workers from asylum seeker communities have been rigidly rejected by ministers[6]. In July 2002 the government announced the withdrawal of a policy concession which had existed since 1986 and allowed asylum seekers whose applications had not been decided after six months to take employment.[7] This decision was taken despite the objections of refugee welfare groups, who argued that access to employment in cases where the initial determination process was proving prolonged was of great importance for the successful integration of refugees.

The recent history of immigration policies in the UK has shown a marked capacity for prejudicial attitudes directed at one group of immigrants to extend to much wider

---

6 The journal for human resource managers, Personnel Today, attempted to tackle this antipathy on the part of government by launching a campaign in July 2001. Amongst other things, the journal called for the compilation of a skills database of asylum seekers to assist prospective employers in the search for suitable employees.

7 Faster asylum decisions - Historical employment concession ended, Home Office Press Notice, 23 July 2002.

categories. The damage is ultimately felt at the level of ethnic minority communities in general as the level of racism in society shows a marked rise. It is in the wider and sombre context of a poor climate for immigration rights that we must consider the specific proposals for the modernisation of economic migration procedures.

1.2. The need for a modern immigration system

Four decades of immigration policy primarily focused on severely limiting possibilities for immigration have shaped a system based on comprehensive checks on travellers at British ports and the extension of pre-entry visa requirements. By the mid-1990s, the system was coming under immense strain in the face of increases in the volume of international travel, which doubled to nearly 100 million people per year travelling though UK ports of entry by the end of the decade. In addition the increase in refugee arrivals continued across the decade, caused principally by war in the Balkans and political unrest in other parts of the world. The administrative capacity of the immigration authorities all but shattered during this period, and much of their work was brought to a standstill[8]. Pressures to modernise the system grew out of a sense that immigration policy had failed to keep pace with changes that had occurred in the world political and economic systems. Foremost amongst these pressures was the fact that changes in the structure of the global economy had led to the creation of highly competitive global markets for labour and services which conflicted with the traditional approaches of nation states in maintaining tight controls over the movement of workers[9].

Migrant labour to the UK is controlled primarily through a tightly managed work permit system. Applications are made by employers for a particular person to do a particular job[10]. To safeguard job opportunities for resident workers, they must show that a resident worker is not available to fill the post. Provisions exist in the Immigration Rules for a few work-related categories of entry which do not require a work permit, such as business persons, self-employed people and investors. Entry routes are limited almost entirely to those with essential skills or experience. The only entry-route for low-skilled workers is for people employed in the agricultural industry under the Seasonal Agricultural Workers Scheme. In addition, young Commonwealth citizens wanting to combine holiday and casual non-professional work may come under the Working Holidaymakers Scheme.

For many employers wishing to employ migrant workers, the work permit scheme had been seen as excessively bureaucratic and cumbersome. This was acknowledged by the government, which came to see the UK's ability to attract skilled workers in the global labour markets as a key component in its economic growth strategies. The need to relax the over-restrictive work permit system became a major focus of reform when

---

[8] The Home Office White Paper *Fairer, Faster, Firmer- A Modern Approach to Immigration and Asylum* reported that in May 1998 there was a backlog of 52,000 asylum applications awaiting decisions, of which 10,000 had been in the queue for over five years.
[9] C.f. report of the *Bridging the Information Gap* conference organised by the Immigration Research and Statistical Service of the Home Office in March 2001.
[10] In 2001 there were over 104,000 new work permits issued, in addition to around 33,000 extensions and changes of employment to existing permits. Figures for 2000 show that computer services and health and medical services account for large proportions of the permits issued. Home Office White Paper, *Secure Borders, Safe Haven – Integration with Diversity in Modern Britain,* 2002, at paras.3.8-3.10.

the Labour government took office in 1997. In 1998, the new government published the White Paper *Fairer, Faster and Firmer – A Modern Approach to Immigration and Asylum*, which – as the title suggested - argued for the need to modernise the immigration system. While widely focused on stepping up immigration controls in the asylum field, the government also wanted to make sure that new entry clearance arrangements reflected the wider interest of the UK in order "to ensure that visitors, businessmen, students and others whose activities benefit the UK" felt encouraged to come[11].

A thorough review of the work permit system was undertaken in 1999 with the aim of streamlining and simplifying its operations. The changes gradually achieved substantial reductions in the turnaround times of applications[12]. New measures included the redefining of skills threshold required for a work permit, simpler procedure for extending a permit, and an increase in the work permit's length from four to five years. In addition, a new approach was piloted in the form of an 'Innovators Scheme' to allow foreign nationals with entrepreneurial ability, technical skills and a good business plan to enter the UK to develop e-commerce or other new technologies.

1.3. Discussing the benefits of migration

The reforms undertaken during the first years of the Labour government demonstrate a commitment to the needs of at least a section of the business community in meeting its labour shortages from migration. However, as the policy developed it became clear that these shortages were more acute, and extended across a wider range of the skill spectrum, than had been previously acknowledged. A fresh debate on "a modern immigration policy", which discussed the "benefits and challenges of a managed migration", was initiated by the then Home Office Minister for Immigration, Barbara Roche. In a speech at a conference of the Institute for Public Policy Research in September 2000[13], she described what was claimed to be the biggest shake-up of immigration policy for decades.[14] The government's new thinking was reopening discussion on the question of the need for primary economic immigration to the UK in the public arena. The minister spoke about the benefits of economic migration and welcomed the arrival of people in the UK as workers and self-employed service providers, who were essential in assisting the growth of the economy in competitive global markets.

In March 2001, a groundbreaking conference on immigration and asylum brought together a wide range of researchers from academic institutions, as well as international organisations, NGOs, immigration practitioners and government departments to consider the new elements in the immigration debate[15]. The point was made that, while

---

[11] White Paper *Fairer, Faster and Firmer – A Modern Approach to Immigration and Asylum*, July 1998, para.5.2.

[12] Until January 2001, 70% of complete applications were decided within one week of receipt. One year later the standard was 90% of complete applications decided within one day of receipt. 2002 White Paper, para.12.

[13] Barbara Roche, *UK Migration in a Global economy,* Speech at the IPPR conference on 11 September 2000.

[14] *DailyExpress 12 September 2000.*

[15] *Bridging the Information Gap: A Conference of Research on Asylum and Immigration in the UK*, March 2001.

concentrating on three main propositions - a need for replacement migration because of demographic change; a need to compete in a global skills market to remain economically competitive; and a need to recruit overseas labour to meet specific skill shortages – issues in the migration field were much more complex than generally acknowledged and needed to be thoroughly researched[16]. The conference prepared the groundwork for a comprehensive programme of research on immigration for which a variety of researchers and academic institutions were invited to tender.

A widely publicised study had been commissioned by the Home Office in advance of the conference to pull together the existing theory and evidence on the economic and social contribution which immigrants make[17]. The report identified a range of positive economic and social impacts arising from migration, such as the fact that migrants create new business and jobs for the existing population, and bring a widening of consumer choice and significant cultural and academic contributions[18]. It called for more research into the socio-economic impacts of migration, and identified areas for policy review, pointing specifically to the need for a better entry control system which 'joined-up' with other areas of government policy. The net effect of these changes would enhance the economic and social contribution of migrants, in line with the government's overall objectives[19].

At the same time as this re-consideration of immigration policy, the government initiated a debate on the continuing problems of poverty and social exclusion. Concern was expressed that neither social exclusion nor the indexes used to measure it had embraced migrants as a category to be considered. This suggested that most migrants ceased to be regarded as an appropriate subject for policy once they passed entry control[20]. Findings from further research supported the conclusion that, although migration could put additional pressure on the country infrastructure (e.g. in housing, education, transport), overall it appeared to produce economic, social, cultural, and fiscal benefits for Britain[21]. Studies on migratory trends also suggested that, whilst it was often assumed that most migrants were seeking to gain permanent residence abroad, labour movement was short-medium term (i.e. six months to five years) and that the majority moved on a temporary basis and returned later to the country of origin[22].

Consideration has been given to demographic trends as they are expected to develop over the course of the next half-century, and the impact that these might have on migration to Britain over this period. In common with other European countries, UK fertility rates are running below population replacement levels. Without net immigration, the population of working age is expected to fall by 2 million over the next 25 years. The ratio between the economically active and inactive will decline as a consequence from more than from more than four to less than three to one. This will have significant

[16] Conference report, p. 66.
[17] Glover et all, *Migration: an economic and social analysis*, Home Office RDS Occasional Paper No.67, January, 2001.
[18] *Ibid.,* chapter 6.
[19] *Ibid.,* chapter 7.
[20] *Ibid.,* para.7.14. See, for instance, The Social Exclusion Unit's First Annual Report, *Opportunity for All, Tackling Poverty and Social Exclusion*, Cm4445, 1999.
[21] Gott and Johnston, *The Migrant Population in the UK: Fiscal Effects,* Home Office RDS Occasional Paper No. 77 (2002).
[22] Dobson et all, *International Migration and the United Kingdom: Recent Patterns and Trends*, Home Office RDS Occasional Paper No.75 (2001).

implications for the financing and staffing of health and social services and pensions systems.[23]

However, whilst there is awareness of these issues in the thinking of policy makers and other groups, the expectation is that the demographic deficits anticipated in the future will not impact so sharply in the UK as in other European countries. Official statistics suggest that the onset of major problems will be delayed in Britain because the country will benefit in the years ahead from a surge in population of 2.5 million people which took place in the two decades prior to 2001. The UK also has higher labour market participation rates than most European countries, providing a potential cushion to lessen the effects of declining birth rates during the next decades. Planned reforms of the labour market facilitating employment beyond current retirement ages are also likely to provide leeway allowing a crisis to be avoided in the immediate future.

Even if the demographic deficit issue is not regarded as such a powerful argument favouring liberalised immigration policies in the UK, the other factors considered above have inclined the government to support new policies to facilitate labour migration. Over the year 2001 a series of official statements confirmed that the government's new immigration strategy was to encourage immigration to meet the country's social and economic objectives. Although the emphasis was on the need to assist British-based companies by bringing in new high skilled labour (specifically, IT specialists), the government admitted also the less publicised shortage of unskilled labour in the catering, agricultural and building industries, much of which worked in the black economy[24].

1.4. The politics of managing migration

The new government policy of addressing the imperative for labour migration is reflected most recently in the White Paper *Secure Borders, Safe Havens: Integration with Diversity in Modern Britain,* published in February 2002. Building on available research findings, the 2002 White Paper is considerably more outspoken about the need for a new approach to migration than at any point in the previous four years. Migration is now addressed as "an inevitable reality of the modern world" and one which "brings significant benefits"[25]. The government recognises that there are recruitment difficulties and skills shortages "at both the high and the low end of the skill spectrum" which migration, in the short run, "may help to ease", while in the long-term stimulating "economic growth and job creation"[26]. In addition, migration may also help to deal with illegal working as "providing opportunities of work in the UK legally will reduce the need for economic migrants to enter and work clandestinely, often in vulnerable conditions, and for employers to recruit them to fill jobs"[27]. The government is also committed "to develop and adopt approaches to ensure that labour migration to the UK does not exacerbate skills shortages in developing countries"[28].

[23] Glover et all, *Migration: an economic and social analysis*, Home Office RDS Occasional Paper No.67, January, 2001
[24] House of Lords Select Committee on the European Union, *A Community Immigration Policy* (April 2001), Barbara Roche.
[25] 2002 White Paper, Foreword by the Home Secretary David Blunkett
[26] 2002 White Paper, para.3.5.
[27] 2002 White Paper, para.3.6.
[28] *Ibidem*.

In a lengthy chapter on 'Working in the UK' the government outlines its strategy to bring the immigration system more closely in line with the local labour market needs. The measures proposed are meant to improve and augment current entry routes for economic migrants in order to target areas of real skill and labour shortages. In addition to the Highly Skilled Migrant Programme (HSMP) - already introduced in January 2002 to enable the most talented persons to come to the UK and take up work - the government would change Immigration Rules to allow postgraduate students to switch into employment without having to leave the UK, and review the Seasonal Agricultural Workers Scheme (SAWS) and the Working Holidaymakers Scheme (WHS) with a view to relaxing employment restrictions. Consideration would be also given to how to meet the demand for short-term casual labour in certain specific sectors[29].

Two consultation papers were issued over the summer 2002 on the revision of the SAWS and the WHS, respectively. The SAWS consultation document recognises that entrants under this scheme were proving an essential source for casual labour to meet the needs of the agriculture sector. Anecdotal evidence indicated that a decline in supply from other traditional sources of seasonal and casual work, such as students from Britain or other EU countries had resulted in shortages increasingly being met by migrants working in the UK illegally and by UK nationals working illegally whilst in receipt of social security benefits[30]. While the current discussion concentrates on scope of the SAWS and the quota (currently set at 20,200), any review may be short-lived as the majority of scheme participants originate from Eastern European and will on accession of their countries to the European Union be able to freely enter the UK to undertake seasonal, as well as permanent work[31].

To meet the demand for short-term casual labour within other, specified, sectors of the British economy, a new managed migration schemes, modelled on the SAWS, is being developed and is likely to be introduced in mid-2003[32]. Called the 'sector-based scheme (SBS)' it will allow a closely managed fixed quota of 10,000 people to enter short term casual employment for strictly time limited periods to enter the UK each year. The initial pilots schemes for SBS will commence in May 2003 and will operate for the food processing and hospitality industries. Reflecting current provisions under the SAWS, the new scheme will not carry the right to settle in Britain or to bring families.

A complete overhaul of the WHS is also currently underway. Under this scheme about 40,000 young Commonwealth citizens come to Britain every year for an extended two-year holiday and are allowed 'incidental' employment to fund their stay. The need to revise the WHS stems from evidence that this system operates almost entirely in favour of young workers from the 'Old' Commonwealth and has exposed the immigration authorities to accusations of racial bias[33]. The consultation document recognises that the scheme does not operate fairly and proposes to remove certain work restrictions that

---

[29] 2002 White Paper, para.3.14 et seg.

[30] Review of the Seasonal Agricultural Workers' Scheme 2002, Home Office Consultation Document, May 2002, para.3.

[31] *Ibid*, para.6.2. The government has recently announced that Britain will grant full working rights to people from the eight new countries set to join the European Union on 1 May 2004. *Migrants Boost UK Labour Market,* Home Office Press notice, 10 December 2002.

[32] *Building Trust and Confidence – Home Secretary Tackles Asylum Abuse,* Home Office Press Notice, 7 October 2002.

[33] Working Holidaymaker Scheme, Home Office Consultation Document, 2002, para.3.1.

disadvantage less affluent applicants, and commits the authorities to improving the promotion of the scheme throughout all countries of the Commonwealth[34]. The wider objective of the review is, however, to increase the effectiveness of the scheme in providing an additional flexible labour force that can help to alleviate recruitment difficulties[35]. Plans to expand it into a more explicitly labour market scheme simply acknowledge the fact that the supply of entrants under the WHS has become a key source of labour in the service industry. In some skilled sectors with acute recruitment difficulties, such as teaching and nursing, employment restrictions have already been relaxed and allow entrants to take up professional work.

1.5. The debate among key stakeholders

Non-governmental organisations and practitioners working in the field of immigration have welcomed the new positive tone and language around migration issues in recent policy debates. There is, however, also disappointment at the minimalist reforms to the immigration regime announced in the 2002 White Paper. Taken as a whole, it is argued, the proposal fail to bring about a major adaptation of policy to allow it to meet the level of demand for labour migration in the modern world[36]. They point to the fact that most reforms presented in the White Paper only remark on policy changes which have already taken place. They do not open up significant new channels for legal economic migration. The promised reform of the economic migration regime is limited to two new managed migration schemes which cover specific sectors of recognised shortage of casual work with no family reunion rights for the workers and the expectation they return abroad at the latest after twelve months.

Responses from the trade unions on the opening up legal routs into the British labour market have been more ambivalent and reflect their concerns about the effect that any schemes might have on the pay, conditions and job security of existing workers, and on the training and personnel development programmes of employees[37]. While government provides repeated reassurances that migration is a complementary option, and is not an alternative to developing the skills and employment opportunities of the existing population[38], the Trade Union Congress remains concerned that 'poaching' workers from abroad may offer a convenient alternative to forcing through improvements with respect to the domestic workforce[39].

Concerns about the impact the opening up new channels for economic immigration may have on the domestic workforce are being assuaged by the Home Office, who have recently published research findings which support the conclusion that migrants do not compete for jobs with existing workers if carefully selected to complement the existing labour force and may under such conditions even increase overall wage rates.[40]. These finding do confirm what NGOs and immigration experts have been arguing for years,

---

[34] *Ibid.*, para.4.3.
[35] *Ibid.*, para.4.5.
[36] See for instance JCWI response to 2002 White Paper, available at www.jcwi.org.uk.
[37] Trade unions Congress response to 2002 White Paper, available at www.tuc.org.uk.
[38] See for instance the 2002 White Paper at para.13, and *More short-term foreign workers to help fill gaps and boost UK economy,* Home Office Press Notice, 29 May 2002.
[39] Trade unions Congress and JCWI, *Migrant Workers – A TUC Guide*, 2002.
[40] Haque et all, *Migrants in the UK, their characteristics and labour market outcomes and impacts,* Home Office RDS Occasional Paper No. 82, December 2002.

although they widely share the view that any immigration policy aimed at meeting labour shortages must be formulated in the wider context of employment policy[41].

In addition, some NGOs have pointed out that the Labour government's programmes to tackle unemployment and improve work conditions are at risk of being undermined by unauthorised migrant labour operating without the formal protection of minimum wages and health and safety standards.[42]. The government is aware that failure to fill shortages at the low-unskilled level acts as a powerful pull factor for irregular migration as does the present absence of effective enforcement of measures against illegal employment, on which traffickers and smugglers capitalise[43]. Hence, the focus in the White Paper on opening legal migration routes to pre-empt illegal migration at the lower echelons of the labour market. This focus has been widely welcomed but has led many organisations to remark that the government's aim was unlikely to be achieved by the present limited proposals to cater for low-skill/unskilled labour[44].

NGOs further believe that too much emphasis on policing solutions to illegal migration fails to address the fact that illegal workers are vulnerable to extreme forms of exploitation[45]. In its 2002 White Paper the government indicated their intention of making a number of, mainly administrative, changes to improve enforcement of the present scheme of employer sanctions. These appear to be contingent on simplifying the types of documents that need to be seen by employers to confirm the entitlement of an individual to take employment[46]. As such, they are not expected by anyone outside government to have any real impact on the enforcement of sanctions against employers. For these NGOs, the real battle against irregular migration and the exploitation of vulnerable people will require migration policies which open up realistic channels for the migration of semi-skilled and unskilled workers.[47].

The trade unions strongly advocate for the enforcement of labour legislation combating irregular work and the exploitation of migrants[48]. They complain that the lack of any mechanism to prevent the abuse of such workers is a serious omission in the new migration management strategy[49]. A recent conference entitled *Migrant Workers: Who Benefits?* summed up the frustration of various stakeholders at the extent to which the liberalisation of immigration policy is being driven by business dictating labour market needs, and fails to take into account the interests of other parties involved, namely the immigrants themselves[50]. Participants at this event argued for a rights-based approach

---

[41] See evidence given for the House of Lords Select Committee on the European Union, *A Community Immigration Policy*, 13th Report, para.56-59.
[42] ILPA submission to the House of Lords Select Committee on the European Union, *A Community Immigration Policy*,13th Report.
[43] See House of Lords Select Committee on the European Union, *A Common Policy on Illegal Immigration*, 37th Report, para.82.
[44] JCWI response to 2002 White Paper; Greater London Authority response to White Paper.
[45] 2002 White Paper Chapter 5.
[46] The possibility of this simplification is provided for in Section 147 of the latest government legislation, the Nationality, Asylum and Immigration Act 2002.
[47] See Bill Jordan and Franck Duvell, *Undocumented Immigrant Workers in London: Issues for Public Policy*, Paper prepared for the IPPR Conference on Immigration Policy and Markets for Unskilled Labour, 15 March 2002.
[48] Trade unions Congress response to consultation on review of WHS
[49] Trade unions Congress response to 2002 White Paper.
[50] UNA-UK conference: Migrant Workers: Who Benefits?, London 10 December 2002.

to immigration which required not just the reform of the work permit scheme, but the establishment of a clear framework of rights that migrant workers could assert without the fear of deportation as a consequence of any dismissal. A comprehensive policy in the immigration field should also aim to assist the integration the migrant workers in granting family reunion rights and security of residence in the country of settlement[51].

Organisations further point to the particular disadvantages faced by refugees and asylum seekers in relation to other migrants. Evidence shows that neither the provision of benefits nor permission to work allowed them to escape from excluded, impoverished roles, or exploitation in the shadow economy.[52] Barriers to their employment are considerable despite growing information suggesting that a high proportion of them are skilled and could give UK employers access to resources that are needed to tackle current skills shortages in the country[53]. These barriers far from being removed have since July 2002 been reinforced by the government's decision to withdraw altogether the limited work concession asylum-seekers had previously enjoyed[54]. NGOs and practitioners consider this to be the most striking example of how the overriding emphasis on immigration control and concerns about minimising incentives for economic migration for asylum seekers, in addition to clashing with fundamental human rights, also fails to reconcile refugee rights with the government's expressive intentions to liberalise immigration for economic purposes.

[51] JCWI, *Manifesto for the Reform of British Immigration Policy,* p.24.
[52] Jordan/Duvell, supra, p.13.
[53] See, for instance, the report by Gill Sargeant and Aminatta Forna, *A poor reception - refugees and asylum seekers: welfare or work?,* The Industrial Society, 2001.
[54] *Faster asylum decisions - Historical employment concession ended,* Home Office Press Notice, 23 July 2002.See also Refugee Council, December 2002 at www.refugeecouncil.org.uk.

Chapter 2: The stakeholders

Immigration control is the responsibility of the Immigration and Nationality Department (IND) of the Home Office. Since 2001, the Home Office administers also the work permit system (previously administered by the Overseas Labour Service of the Department for Education and Employment). Entry clearance is now administered by the Home Office/Foreign and Commonwealth Office Joint Entry Clearance Unit.

The integration of the government department responsible for issuing work permits into the department with overall responsibility for immigration control has served the purpose of administrative efficiency and better immigration service co-ordination. Prior to this reform, the Overseas Labour Service of DfEE used to examine requests and deliver work permits for people wishing to come to the UK as salaried workers, while an Integration Case-working Directorate of the Home Office examined applications and delivered permits for self-employed activities[55]. The fact that different government departments sometimes pursued conflicting policies has meant that in practice the grant of a work permit would not lead necessarily to an entry clearance[56]. It has been observed that this has in the past "led to friction between the Overseas Labour Service of the DfEE and the IND, the former having as the principal concern the economic welfare of the UK whereas the latter are concerned principally with immigration control."[57]

The move of the work permit scheme from its former position with the DfEE to the Home Office has accompanied the move of former employment secretary of state David Blunkett to the Home Secretary position. Blunkett has been strongly associated with the drive to modernise and reduce the bureaucracy of work permit procedures to reflect the global labour market and specific skills shortages and is behind the review of the work permit system that in October 2000 introduced more simple and flexible procedures[58]. In October 2001, as the newly appointed Home Secretary, Blunkett announced a further package of measures to reform the UK asylum and immigration system which were formalised in the 2002 White Paper proposals.

It is clear from the reforms so far undertaken that the new Home Office immigration policy has been more closely tied to the perceived needs of British business[59]. Labour ministers have shown that they are responsive to the lobbying of employers for greater access to the resources of the international labour markets and work permit schemes have been reformed to allow the entry of much larger numbers of skilled workers. Other schemes have been introduced, such as the Highly Skilled Migrants Scheme, which cater for more high net value immigrants and business people. The number of work permits issued has been growing consistently from 50,000 of 1997 to in the region of 150,000 in 2002. In addition, the requirements of the agricultural sector have driven changes in other work-related schemes, notably the SAWS, where amongst others

[55] ECOTEC, *Admission of third-country nationals for paid employment or self-employed activity*, 2000 p.232.
[56] IAS memorandum to House of Lords Select Committee on the European Union, *A Community Immigration Policy*, 13th Report., para.9.3.
[57] *Ibidem.*
[58] Don Flynn, *Business Interests and Migration*, Background Paper for the Seminar on Business and Migration, October 2001.
[59] *Ibid., p.5.*

increases in the quota further testify to a process of liberalisation taking place within the immigration policy for the benefit of economic and business interests[60].

Those influencing the debate within the context of business are primarily private companies and public sector employers who engage with the systems of immigration management on a continuous basis.[61]. The opening up to certain areas of low skills, such as those in construction and catering, however shows that also companies in what were perceived as marginal sectors of the British industry are now also receiving a hearing.

Local authorities have also proven very influential in dictating changes to meet skills shortages in the public sector - experienced acutely in education and the health service[62]. Thanks to the liberalisation of immigration policy, education departments have managed to recruit teachers both at the primary and secondary levels from all over the world[63]. Corresponding action has been taken by the government to assist NHS and the care sector in recruiting doctors and other medical practitioners, including technicians and nurses to fill vacancies. Recruitment agencies are working on behalf of the NHS Trusts and Health Authorities to find candidates from abroad. Their aggressive recruitment practices have prompted protests from the countries concerned and calls from the trade unions for their regulation[64].

The IND is running several user panels with the aim of encouraging greater discussions among those affected by the provision of IND's services and help improve the level of service provided. A variety of stakeholders meet regularly on these panels which have been expanded to cover the whole range of sectors where Work Permits UK operate its policy on the recruitment of foreign workers, such as the engineering, financial, healthcare, hotel and catering, technology, communications and electronics, teaching sectors. Meetings take place quarterly. On these panels, IND officials and relevant stakeholders share and exchange information and intelligence about the labour market for the specific sector with a view to assisting Work Permits UK operate its policy on recruitment of nationals outside of the European Economic Area, in a flexible and responsive way. Individual cases and policy issues are not within the scope of the panel. The government is currently planning to set up an Illegal Working Steering Group to follow up on the 2002 White Paper's commitment to tackle illegal working. Once this Group is up and running, it is likely to meet six times over a two-year period. It will consist mainly of employers, trades unions and other stakeholders meeting to discuss strategies for the prevention of illegal working.

The Home Office has also resolved to involve more closely other Departments to ensure that migration policies complement other policies for the labour market, integration and international development[65]. DfID has, for instance, shown considerable interest in participating actively and constructively in the UK and EU debate over skilled migration by promoting in-depth research into the impact of policies that target skilled migration on

---

[60] *Ibid.*, p.4.
[61] *Ibid.,* p.8.
[62] See 1998 White Paper.
[63] Don Flynn, *supra,* p.15
[64] *Ibid.*
[65] 2002 White Paper, para.13.

the economic development of the source country[66]. As far back as 1997, a DfID White Paper on International Development pointed out the need on the part of developed countries to be more sensitive to the impact on developing countries of the brain drain[67]. The Department's stated objective was to help developing countries manage migration flows as beneficially as possible, through conflict prevention, humanitarian assistance, and broad-based economic growth, but not through using resources to reduce voluntary migration[68]. This position has brought the department in collision with the government plan, in the run-up to the Seville Council, to make aid to third countries dependent on co-operation on immigration. DfID has categorically opposed the use of development aid other than for the relief of poverty[69].

An important new development is the influence of the academic sector and is proof of a new interest in evidence-based policy making in this area. Recognising the previous lack of research on migration, the government has initiated an extensive cross-departmental research programme and engaged a considerable number of academic researchers in policy related research[70]. Research findings have been eagerly publicised by the Home Office press office and widely commented upon by the media and have been taken as evidence that the government is serious about promoting a public debate on this issue[71]. Many findings have formed the basis for the changes presented in the 2002 White Paper.

In addition to UK-based researchers, the government is eager to engage the international research community as a valuable source of information and a potential partner for comparative research[72]. In the intensifying global labour market competition, it has been looking closely at how other countries are developing their migration routes to attract highly skilled migrants. The UK Highly Skilled Migrants Scheme has been developed further to a study for the Home Office by the Migration Research Unit at University College London, examining the experiences of other countries in managing entry flows of highly skilled migrants for employment purposes[73].

The trade unions have also been giving considerable attention of late to the issue of migration. They have taken the lead in calling for the regulation of agencies involved in the recruitment of skilled labour from abroad and have condemned the emerging evidence of poor and exploitative employment practices in the UK public sector. This has led the government to issue instruction on international recruitment stipulating minimum pay grades and the obligation to advise prospective employees on the advantages of joining a trade union.

---

[66] DfID sponsored a research project carried out by ILO which produced seven country studies on the brain drain and a synthesis report on the issues studied. See the overall synthesis report *Migration of Highly Skilled Person From Developing Countries: Impact and Policy Responses,* October 2001.

[67] *Eliminating World Poverty: A Challenge for the 21st Century*, White Paper on International Development, November 1997.

[68] *Ibid.,* p.68.

[69] House of Lords Select Committee on the European Union, report on illegal immigration para.90.

[70] 2002 White Paper, Annex G, Supporting Information and Research Requirements.

[71] Sarah Spencer in Bridging the Gap report, p.37.

[72] 2002 White Paper, Annex G, para.10.

[73] Gail McLaughlan and John Salt, *Migration Policies Towards Highly Skilled Foreign Workers*, Report to the Home Office, March 2002.

The trade unions have also consistently responded to policy proposals and to consultations on the review of work permit arrangements and made submissions to migration-related Parliamentary enquiries, alongside with a growing number of concerned non-governmental groups and individuals who have emerged in the recent years and who have been seeking to influence the public policy debate[74]. Trade unions and NGOs play a critical role in the debate as they are usually the ones who are ensuring that immigration matters are not just about economic performance. They aim, amongst other things, to secure a position for refugees, asylum seekers and economic migrants with low skill levels and to stop any further erosion of their human rights that may come about as a result of the economic and labour market arguments of big business[75]. Since immigration law has become a highly specialised legal field of expertise, members of the legal profession have become increasingly involved in the debate and offer their expertise on many aspects of human rights law while contributing together with the non-governmental sector in monitoring, lobbying and making deputations on behalf of migrants, refugees and asylum seekers.

[74] Don Flynn, *supra,* p.8.
[75] *Ibid.,* p.16.

Chapter 3: European legislative proposals

It should be noted at the outset of this chapter that the UK government, exercising its right under the Protocol to the Treaty of Amsterdam on the position of the United Kingdom and Ireland, has opted to participate in only a limited number of Title IV measures, notably those which aim to control illegal immigration. In line with its policy to preserve frontier controls, the government does not participate in measures which would create new rights of entry for third country nationals. There is no indication that the position of the UK with regard to Title IV measures that might impact on the operation of frontier controls will be reconsidered – a position that will inevitably have the effect of limiting the UK's influence on the shaping of a Community immigration policy.

In the long-term it is likely to be difficult to sustain this position. The boundary between immigration measures under Title IV (visas, asylum, immigration and other policies related to the free movement of persons) and Single Market measures under Title III (free movement of persons, services and capital), over which the Community has competence, is not as clear-cut as the UK policy officials maintain[76]. It is arguably an act of discrimination to withhold single market opportunities from third-country nationals who are otherwise fully integrated into local and national labour markets.

Given the current position of the UK government, the European legislative measures under consideration have been scrutinised by relevant Parliamentary Committees and commented upon by the various stakeholders but have elicited little official response from the government. The UK does not yet show signs of interest in the development of a positive European migration agenda and has generally set its face against European initiatives in this field, including the three proposed Directives which are the subject of this study.

3.1. Admission for economic purposes

3.1.1. Third country nationals coming for the purpose of paid employment

Eligibility to apply for a work permit

A specialist unit of the Home Office's Immigration and Nationality Directorate (IND) called Work Permit -UK has been responsible for the issue of work permits since 2001.[77] These must be requested by the employer, normally before the third country national enters the country. Recent amendments to the immigration rules have created a channel for degree-level students or students in medical professions to obtain work permit employment whilst in the UK.[78] Individuals cannot apply for a work permit on their own behalf. If the work permit is granted, the permit is sent to the employer in the UK for

[76] Divergent interpretations as to the legal basis of certain measures have already led to a dispute between the Commission and the UK over two proposed Directives on the freedom of third country nationals to provide cross-border services. Both these proposals, the adoption of which the UK is resisting, are based on Article 49 Title III.

[77] Detailed guidance notes for applicants are available from the Work Permits (UK) website at www.workpermits.gov.uk. It is also possible to download all the relevant application forms from this website.

[78] *Immigration Rules (HC 395),* paras. 131A-131B.

onward transmission to the employee abroad. If the worker is already in the UK, his or her passport will be endorsed with the appropriate form of leave to remain. Work Permits UK only issues permits when it is satisfied about the pay and conditions offered for the jobs, which should be at least equal to those normally given to a 'resident worker' doing similar work.

General rules of entry and residence for the purpose of paid employment

The granting of leave, extensions of leave and settlement to work permit holders is set out in the Immigration Rules and the Immigration Directorate Instructions (IDIs)[79].These require - with the exception of students already resident in the UK - that a person who is to take employment for which a work permit is needed to have a permit before entering the country. Agreement to issue a work permit by Work Permit - UK does not guarantee entry into the UK, though refusal of admission after a work permit has been issued will be an exceptional measure. On being notified that the issue of a work permit has been agreed, the worker is then obliged to arrange an appointment with an entry clearance officer (ECO) at a British mission. Additional requirements of the Immigration Rules will then be considered. If the ECO considers it appropriate, the worker's passport will then be endorsed with confirmation of the issue of a work permit and he or she will be free to travel to the UK. Work permit holders may be admitted to the UK for up to five years.

Duration and renewal of permit

Work permits under the business and commercial category are issued for up to five years[80]. An application to extend a permit is also treated as an application to extend the leave granted to the work permit holder and therefore must be submitted before the leave expires. Because Work Permit-UK has become part of the Home Office, both matters are dealt with by them. Leave will normally be granted for the period specified in the work permit, or for five years, whichever is the shorter. The application should ideally be submitted by the employer between one and three months before the expiry of the existing work permit. It is not necessary for the employer to re-advertise the position provided the job remains the same[81].

Multiple entry work permits can be issues for a minimum of six months and a maximum of two years. This type of permit allows workers who are based overseas to enter the UK for short periods of time on a regular basis to work, rather than obtaining a permit each time they enter the country to work. This permit is not renewable. A fresh application must be submitted if a further period is required. This also applies to change of employment applications[82].

Spouses, unmarried partners and dependant children of work permit holders are entitled to remain in the UK during the period for which the permit is valid, provided they can be supported without recourse to public funds. The Home Office has recently granted authority, at the discretion of its officials, for dependants other than spouses and minor age children to remain with the work permit holder. The spouse of the work permit holder

[79] HC 395 Part 5 and IDI Ch5, s1.
[80] See Work Permits (UK) guidance notes for employers on how to apply for a business and commercial work permit, para.41.
[81] *Ibid.*, para.51.
[82] *Ibid.,* para.44-50 and 52, 60.

is entitled to work (if their spouse's work permit is for more than a year), even if the job that they then fill would not meet the work permit criteria. After four years, work permit holders, together with their spouses and dependants, may apply for permanent settlement (indefinite leave to remain)[83].

Skills threshold

While the Directive does not contain any reference to skill thresholds, in the UK work permits are only issued for jobs that meet the skills threshold required. This will usually be either a specific level of qualification (UK equivalent degree, or a Higher National Diploma with one year relevant work experience if the Diploma is not relevant to the post on offer), or a specific level of skills, i.e. three years' high level specialist skills acquired through work experience in the same type of jobs for which the permit is sought. These criteria apply to all applications[84].

'Resident worker' test

Applications for work permits in the UK are subject to the resident worker test, which requires the employer to show why he or she cannot fill the post with a 'resident worker'. The resident workforce includes EEA nationals as well as settled non-EEA nationals[85]. Administrative regulations require the prospective employer to 'test' the domestic labour market by advertising in the most appropriate media for a period of four weeks (usually a national newspaper and/or professional journal relevant to the position in question). Details of recruitment methods and responses generated should be provided, together with reasons why the employer did not employ a resident worker who was either already suitably qualified, or who, with extra training, could do the job. The recruitment methods used, including advertising, should be appropriate to the job and represent a genuine attempt to employ a suitably qualified person[86].

The person cannot transfer a work permit to a different job or work for a different employer without the permission of Work Permit - UK. To change employment the new employer must first obtain a new work permit. Where this involves a change of occupation, the employer will need to carry out a recruitment search. To allow the person to change job within the same company, a test of the resident labour market will normally be required. Any changes of jobs or conditions of employment must be authorised by the Home Office[87].

Special cases

Under current UK administrative regulations, the resident worker test is set aside for designated shortage occupations, intra-company transfers, senior board level posts and posts that are essential to an inward investment project bringing substantial jobs and money to the UK[88]. In these circumstances, employers may apply for work permits under

[83] HC 395, para.134.
[84] Work Permits (UK) guidance note, *supra*, para.14-16.
[85] The formal definition of settled is 'ordinarily resident' with no limitation on the length of time for which a person is allowed to stay. JCWI, *Immigration, Nationality and Refugee Law Handbook*, 2002, p. 325.
[86] Work Permits (UK) guidance note, *supra*, para.30-40.
[87] *Ibid.*, paras. 57-59.
[88] *Ibid*, para.25.

a simplified procedure[89]. The exceptions to labour market testing are wider in the UK system than currently foreseen in the proposed Directive, particularly with regard to intra-company transfers, where any employee – not just key personnel or specialists - may be transferred if the skills threshold is met. Also there is no corresponding provision in the Directive to simplify the procedure in cases where an investment creates substantial economic benefit for the Member State concerned.

Specific provisions in the UK Immigration Rules are made for trainees or short-term work experience programmes. These two categories are dealt with together under the Training and Work Experience Scheme (TWES)[90]. TWES arrangements enable people from outside the EEA to undertake work-based training for a professional or specialist qualification, or a period of work experience. The person must be additional to the employer's staff requirements, i.e. they must not be filling a post that would otherwise be filled by a 'resident worker'. A TWES holder in approved training can be admitted for up to five years and will normally be given leave for the period of the permit[91]. Those embarking on work experience programmes are granted 12 months' leave, extendable to up to 24 months. Immigration Rules prevent people transferring from a TWES to a business and commercial work permit in all but exceptional circumstances. To be eligible for such a permit they must spent a prescribed period of months outside the UK[92].

The other special cases listed in the draft Directive are, under UK Immigration Rules, dealt with in the category of permit-free employment. These include seasonal workers at agricultural camps under approved schemes, working holidaymakers undertaking employment incidental to their holiday, and au pairs placements. The requirements to be met by a person seeking leave to enter under any of these categories vary considerably[93]. Length of stay is allowed for a maximum of six months for seasonal workers and for up to two years for working holidaymakers and au pairs.

---

[89] Jobs falling in these categories are known as Tier1 applications.

[90] Details on TWES are provided at www.workpermits.gov.uk: Guidance notes for employers on how to apply for a training and work experience scheme work permit.

[91] IDI Ch4, s5 extend the three-year period specified in the Immigration Rules, which stipulate that a person may be granted leave for three years at a time.

[92] 12 months if the person was on a TWES permit for up to 12 months and 24 months if they have completed more than 12 months in TWES employment. See Work Permits (UK) guidance note for employers on how to apply for a training and work experience scheme work permit, para.33.

[93] Person seeking leave to enter the United Kingdom as a seasonal worker at an agricultural camp must be students in full time education aged between 18-25 years inclusive, except if returning for another season at the specific invitation of a farmer (HC 395 paras.104-109). Working holidaymakers must be young Commonwealth citizens aged between 17-27 (HC 395 para.95-100). The requirements for 'au pair' placements include being aged between 17-27, unmarried, with no dependants, able to maintain themselves without recourse to public funds and intending to leave the UK on completion of their placement which may be arranged for up to two years. This category of employment is only available for nationals of specific third countries (HC 395 paras.88-94).

3.1.2. Third-country nationals coming for the purpose of self-employed economic activity

General rules of entry and residence for the purpose of self-employment

The UK Immigration Rules allow for people to come to the UK for business purposes in certain restricted circumstances[94]. Applications are made by the individual on specific designed forms to the nearest British Diplomatic post and are then referred to Work Permits (UK) for consideration. Entry clearance is mandatory for those living abroad.

Third-country nationals applying for leave to enter as self-employed workers fall into different categories which are subject to specific requirements. Those requiring leave to enter as a business person must show:

- that they have at least £200,000 capital of their own to put into the business;
- they will be involved full-time in running the business, will be able to meet their share of any liabilities and are able to demonstrate that there is a genuine need for their time and investment.
- that new, full-time employment will be created for at least two people already living in the UK as a result of the admission to the business person from abroad;
- that they have sufficient additional funds to support and accommodate themselves and their family until the business is profitable.
- if they are joining an existing business, the applicant must be able to produce the audited records of the business for previous years and firm evidence that new paid full-time employment for persons already settled in the UK will be created.[95]

People who have at least £1 million at their disposal in the UK may set up business under the 'investors' category. They must intend to bring this money with them and invest at least £750,000 in UK government bonds, or share or loan capital in active and trading UK registered companies, and intend to make the UK their main home.

An 'innovators scheme', commenced in September 2000 as a pilot project. This allowed talented entrepreneurs to come to set up business without a requirement for a minimum level of investment. The scheme permits third-party funding and applications are assessed using a points system. As with entry under the general business category, the innovator must show that the proposed business has a beneficial effect on employment in the UK and that he/she will be able to accommodate and maintain himself/herself and any dependants without recourse to public funds until the business provides income.

The innovators pilot scheme was judged a success and in January 2002 the government introduced the Highly Skilled Migrant Programme (HMSP) as its replacement. This aims to attract high human capital individuals, who have the qualifications and skills required by UK business to compete in the global marketplace. The HSMP is fundamentally

[94] See HC 395 Part.6.

[95] HC 395, paras.201-203. Applications by overseas lawyers setting up or joining a practice are considered under a concession, outside the Immigration Rules (see IDI, Ch6, s1, annex D). They do not have to meet the requirement to invest £200,000 in the business. Specific provisions are made in the rules for self-employed writers, composers and artists to come to the UK. They also do not need to have £200,000 to invest. See HC 395 paras.232-239.

different to the existing work permit and permit-free categories because the applicant can be given leave to enter the UK to seek work instead of having to demonstrate a pre-existing offer of employment. Those given entry under the programme are also able to set up their own businesses in the UK. The programme is similar to the innovators' scheme in that applications are assessed on a points-based system.

Duration and renewal of leave

Business people, investors, innovators, and people coming under the HSMP are normally granted leave to enter for a year initially and can apply to the Home Office to extend this near the end of the year. Provided that all relevant criteria continue to be satisfied, an extension of three years should be granted. The spouse, unmarried partner and children under 18 of the business-person, investor, innovator or the highly skilled migrant may be granted entry clearance to come to join him or her and will be granted an extension to stay in line with the business-person. After four years, they can all apply to settle. Settlement will be granted provided the business is still continuing and is making enough profit to support them.

Horizontal assessments, income thresholds and employers contributions

UK Immigration Rules make no provisions relating to income thresholds and employers' contributions. There is also no concept of ceilings based on social considerations. Quotas are applied to specific categories of work-related entry such as the seasonal workers, on the sole criteria of labour-market needs. Arguments against sustained immigration are mainly advanced by rightwing think tanks on the grounds that this would utterly transform the society against the wishes of the majority of the population, damaging quality of life and social cohesion, exacerbating the housing crisis and congestion, and with questionable economic benefits[96].

Other organisations tend to consider any concept of ceiling extremely disturbing. They point out that in particular the reference to a Member States' assessments of their "overall capacity to receive and integrate third country nationals on their territory or in specific regions" could easily be driven by political and not economic considerations and would give a free hand to extremist xenophobic sectors of society in driving the immigration agenda in the future. The labour test and the economic benefits test should remain the sole determining factor in whether or not to issue a residence permit[97].

Regularisation practices

The UK does not have a policy of large-scale regularisation practice for workers in an irregular position. The issue of regularisation is debated mainly in the context of failed asylum seekers, many of whom are not deported and left 'in limbo' indefinitely. Some means of regularisation of those in an irregular situation is advocated in parliamentary committees and non-governmental sectors, either on an individual or group basis or in

[96] See, for instance, *Onward march of lobby against immigration,* The Observer 1 December 2002 with respect to the anti- immigration agenda of the think thank MigrationWatch UK, and Civitas - The Centre for the Study of Civil Society at www.civitas.org.uk.
[97] See ILPA's Scoreboard on the European Commission's proposal for a Council Directive on the conditions of entry and residence of third country nationals for the purpose of paid employment and self-employment activities, at para.54. Available at www.ilpa.org.uk.

the form of a large-scale amnesty[98]. The government is, however, opposed to the principle of an amnesty or any other form of large-scale regularisation, although it operates policies in individual cases covering such issues for persons who have resided in the UK for 14 years or more; persons who are members of a family which contains children who have resided in the UK for seven years or more; and persons married to lawful residents were the marriage has subsisted for at least two years.

On a few occasions a blanket policy allowing the regularisation of discreet groups of unauthorised immigrants has been adopted. The most recent example of such a policy is the regularisation of about 1000 people from the Sangatte refugee camp in the Calais region, comprising about 900 Iraqis and about 100 Afghans, as part of an agreement between the British and French governments. They have been given leave to enter for four years and are expected to take up employment. At the end of this period they can apply for settlement. Their admission was subjected to an undertaking that they would not raise an asylum claim in the UK[99].

3.2. Family reunion

Family members

The UK Immigration Rules contain provisions allowing spouses, fiancé(e)s, unmarried and same-sex partners of those who are settled in the UK, or who are coming to the UK for settlement, or who are in the UK in a category leading to settlement, to be admitted to the UK and to remain there permanently[100].

A spouse means someone who is legally married in a way recognised by UK law. A fiancé(e) must be someone who is legally able to marry under UK law. This excludes people under 16 even if they have legally married, or are legally free to marry in the country from in which they reside[101]. It also excludes people who are not yet divorced, even if divorce proceedings are under way. Unmarried and same-sex partners must have been living together in a relationship ‘akin to marriage’ for at least two years. Any previous marriage (or similar relationship) by either partner must be shown to be permanently broken down[102].

The rules do not expressly rule out wives who are party to a polygamous marriage, but they do restrict the possibility of family reunion to just one wife, and the children of that wife, in such a marriage. The marriage must be recognised as lawful in the country in which it was contracted.[103]

The requirements to be met under UK rules for the reunification of a minor child - that is a child under the age of 18 - is that the child is unmarried and dependent on both his/her parents, or on the one parent with sole responsibility or, in exceptional circumstances, on the child’s relative present and settled in the United Kingdom or being admitted on

---

[98] House of Lords Select Committee on the European Union, *A Common Policy on Illegal Immigration*, 37th Report, 5 November 2002, at paras.83-86, and annexed submission of evidence by Anti-Slavery International, Immigration Advisory Service, ILPA, JCWI.
[99] Home Office, *Advice for arrivals from Sangatte*, 19 December 2002.
[100] See HC 395, Part 8 and IDI Ch8.
[101] HC 395, para.277.
[102] HC 395, para.295D.
[103] HC 395, para.278.

the same occasion for settlement. A child who is married is not eligible to be admitted under the Immigration Rules even if he or she is still under 18. Children who are coming up to adulthood can be refused if immigration officials believe they are leading an independent life, are self-sufficient or dependent upon someone else.

Where children apply to join a lone parent where the other parent is still alive the rules require that the parent has had 'sole responsibility' for the child's upbringing or there are serious reasons and compelling family or other considerations in the child's own country which make the child's 'exclusion undesirable' and suitable arrangements have been made for the child's care in the UK. Under a concession, the 'sole responsibility' rule does not apply for the admission of children under the age of 12. Children applying to join a relative must satisfy the 'exclusion undesirable' rule as well as all other requirements.

In the Immigration Rules relating to the settlement of children, the word 'parent' includes:
- the stepfather/stepmother of a child whose father/mother is dead
- the father/mother of a non-marital child
- for UK born non-British children, the foster parent or other relative with parental responsibility
- the adoptive parent, *only* where the child was adopted in accordance with a decision taken by the competent authority or court in a country whose adoption orders are recognised by the UK[104].

The rules concerning other relatives are very restrictive. Parents and grandparents aged 65 and over, who are coming to the UK to live with their adult children or grandchildren must show that they are wholly or mainly financially dependent on them and to have no other relatives in their country whom they could turn to for support.

Parents and grandparents who are under 65, adult sons and daughters, as well as brothers, sisters, uncles, and aunts of the relative they wish to join may be admitted to join their relative in the most exceptional compassionate circumstances, if they are living alone outside the UK and are mainly dependent on the relative they seek to join.

The family members permitted to join work permit holders are, in the Immigration Rules, restricted to the spouse and dependent minor-age children. However, a discretionary policy is operated outside the Immigration Rules, which will normally permit the admission of parents and adult children providing it can be shown that they live in the same household as the work permit holder in the country of origin, and are wholly dependent on him or her.[105]

More distant relatives (cousins, half-brothers/sisters, nephew, nieces etc) may be granted admission outside the rules only if there are exceptional circumstances.

Resources

Under the Immigration Rules, most people applying for leave to enter or remain in the UK must show that they do not need to claim public funds in order to support and

[104] HC 395, para.6.
[105] IDI Ch5, s9.

accommodate themselves and their dependants before leave can be granted[106]. In the same vein, the requirements to be met by people seeking to enter for family reunification purposes are that they can be maintained and accommodated adequately, without recourse to public funds. The effect of this requirement is to attach a condition to the applicant's leave which denies access to most welfare entitlements. The meaning of public funds in the UK does, however, not include treatment under the National Health Service, state education and community care[107].

There is no objection to other members of the same household receiving public funds to which they are entitled in their own right as long as they are not subject to immigration control restrictions. The question is whether there is an *additional* recourse to public funds as a result of the applicant's presence in the UK.

In determining whether the dependant can be supported without recourse to public funds, the immigration authorities will take into account the UK sponsor's earnings or savings. The Home Office view is that the level set by income support (or income-based jobseeker's allowance) is the minimum standard of support considered to be acceptable or adequate to meet the rules[108].

Third party support is allowed, although only for a short time exceptionally outside the rules[109]. The Home Office view is that the couple should have a realistic prospect of supporting themselves thereafter.

Waiting period

Family reunion is not subject to any statutory waiting period. Provided the requirements are satisfied, spouses, fiancés, and unmarried partners are granted leave to enter or to remain under the Immigration Rules. In the case of work permit holders and other categories of permitted economic migrants, the spouse and dependent children might accompany the eligible family member from the onset of their residence in the UK.

Independent status

People who are admitted to the UK as a spouse or a partner joining a person settled in the UK must complete a 'probationary' period before they can apply for settlement in the UK. This was recently increased for spouses from 12 months to two years. The probationary period for unmarried partners remains at two years. If the marriage has subsisted for a long time prior to admission to the UK, the government intends that there

---

[106] These requirements do not apply to refugees and their dependants, and to people granted exceptional leave (but do apply to their dependants who are seeking reunion with them). See section on rights of long-term third country residents.
[107] Public funds under the Immigration Rules (HC 395, para.6) are: Income Support/Income-based Jobseekers' Allowance; Housing Benefit and Council Tax Benefit; Working Families' Tax Credit; Disabled Person's Tax Credit; Child Benefit; Attendance Allowance; Severe Disablement Allowance; Invalid Care Allowance; Disability Living Allowance.
[108] JCWI Handbook, p.330.
[109] IDI Ch8, s1, annex H.

will be no probationary period and the spouse will be granted a settled status on arrival.[110]

The spouses of persons admitted under the economic migrant categories, including work permit holders, will be admitted for the same length of time as the person holding the primary leave. A condition of their residence will be that they reside with their partner. They will only be granted a settled status in the UK if the person with primary leave is granted this status.

Fiancé(e)s will usually be given an entry clearance valid for six months and are expected to marry within this initial period of their leave. If this is not possible, they may apply for further permission to remain, explaining why the marriage has not yet taken place and showing satisfactory evidence that it will take place at an early date. Once the couple have married, an application for variation of leave as a spouse can be made. This will normally be granted for two years.

Children are normally granted leave to enter or remain in line with the parent's or other relative's status. If both parents are settled, the child is given indefinite leave. If one parent is granted limited leave with a view to settlement, the child is likely to be given leave in line with the parent's status and will be able to apply for indefinite leave at the end of this period if they continue to satisfy the same conditions. Children of fiancé(e)s are granted limited leave of up to six months and obtain indefinite leave when their parent seeks indefinite leave. However, they also have to show that there is no other person outside the UK who could reasonably be expected to care for them and that suitable arrangements have been made for their care in the UK. The same requirements apply where a child seeks to be admitted for settlement to join only one parent in the UK, who is either the sole surviving parent or the parent with sole responsibility for the child's upbringing.

Children who come to the UK with a view to join a parent, or parents, who are settled in the UK and who are given limited leave, may subsequently be granted indefinite leave even if they reach 18 by the time they come to apply for indefinite leave. Provided that they apply while they still have leave as a child dependant, it doesn't matter that they have subsequently become 18. They may still be granted extensions or indefinite leave in line with their parent(s).

A new provision in the Immigration Rules, introduced in October 2000, allows for the settlement of spouses or unmarried partners whose British or settled spouse or partner dies within the probationary period. The rules require that the applicant can show that the relationship was still subsisting at the time of death and that the parties intended to continue to live together. Bereaved spouses and unmarried partners do not have to satisfy the maintenance and accommodation requirements when they make their application to stay under the Immigration Rules. Under a concession, another exception to the probationary period rule is being made for people whose relationship has broken down because of domestic violence. Provided that the domestic violence can be proved, they will be granted indefinite leave to remain[111]. The concession does not apply to the

---

[110] *Ibid*., para.7.10. The requirement would be removed for a couple who have been married or co-habiting for five years or more.
[111] IDI, Ch8, s1, annexes C and C2.

spouse or partner of a sponsor who themselves only has limited leave to remain, as well as to fiancé(e)s.

Access to employment and education

Spouses and partners are entitled to work during the probationary period. Fiancè(e)s are normally subject to a prohibition on employment and business activity in the initial six-month period of their leave or as long as their application for variation of leave as a spouse is pending.

After being admitted the child is immediately entitled to state education.

3.3 Long-term residence right

Duration of residence

In the UK, long-term resident status - or what is generally known as Indefinite Leave to Remain (ILR) - is available to most categories of legally resident third-country nationals after four years, rather than the five years specified in the Directive. ILR is granted immediately in family reunion cases for parents, children[112], other dependant relatives and for those recognised as refugees. It is granted after two years of limited leave in marriage cases and after two years of stable cohabitation for unmarried partners. Those admitted for employment, self-employment, business or investment purposes are eligible to apply for the status after four years of continuous residence. Those granted subsidiary protection (exceptional leave to remain or ELR) will also usually obtain the status after four years.

Concessions operate outside the rules under which people may be granted ILR on the basis of their long residence in the UK. These apply to those lawfully resident for 10 years and those who have been resident both lawfully and unlawfully in the UK for 14 years[113]. Students who have been continuously and lawfully resident throughout their studies would also fall under the 10-year concession.

The provisions on breaks of residence in the Directive are similar to those applicable in the UK, where the Home Office applies a general rule that temporary absences will not break continuous residence for the purpose of obtaining ILR. The proposal would, however, partially remove the wide discretion in assessing whether qualifying residence is continuous. Current UK practice allows for more discretion when calculating the period of legal and continuous residence. Continuity of residence would not normally be regarded as broken by a small number of short absences abroad, of up to 6 months at any one time. However, if the absences are 'frequent', it will be necessary to explain why the person needs to leave the UK so often.

---

[112] See, however, in previous section the different rules applying to children arriving with one parent who is only given one year's permission to enter the UK as a spouse. These children are usually given the same status as the parent they are accompanying even if their other parent is settled in the UK.
[113] For the 10-year and 14-year concession, see IDI Ch18

Resources

The means test criteria, requiring the long term resident to demonstrate stable resources no higher than the minimum social assistance level guaranteed by the host state, are different to the "maintenance and accommodation" requirement applied to third country nationals in the UK. Applicants for ILR, other than asylum seekers and other protection related categories granted exceptional leave[114], would need to demonstrate that they have for the duration of their residence been able to maintain and accommodate themselves without recourse to public funds. The requirement to demonstrate health care insurance covering all risks would introduce a new requirement to the UK, where long-term residents will invariably have full access to the National Health Service.

Withdrawal and protection against expulsion

In the UK, refusal of ILR would occur where the individual had failed to meet the requirements of the Immigration Rules[115]. Otherwise, refusal would normally only be appropriate where there were strong countervailing factors, such as:

- an extant criminal record, apart from minor non-custodial offences, or
- deliberate and blatant attempts to evade or circumvent the control, for example by using forged documents, absconding, or contracting a marriage of convenience.

The authorities can withdraw ILR for a number of reasons, including criminal offences or 'grounds conducive to the common good'. Recent legislative changes have made it clear that suspicion of involvement in terrorist activities, including supporting for organisations carrying out such activities, would result in deprivation of ILR status.[116]

More generally, under the 'returning residents' rule, ILR lapses where someone has been absent for two years, or where the individual no longer has ties with the UK. This would include where someone had been removed or deported, or who had established a permanent residence abroad and whose purpose in returning to the UK for a short-term visit only.[117]

Someone with ILR could have a deportation order made against him or her in the following circumstances:

- where deportation is deemed by the Secretary of State to be conducive to the public good;
- on recommendation by a Court as part of a sentence for criminal activity;

The spouse or minor dependant child of a person who is being deported are also liable to deportation[118].

The UK would seem to have more discretion to expel those with ILR than the draft Directive provides. In all cases, the final decision rests with the Home Secretary. There is an in-country right of appeal against a decision to make a deportation order on

[114] Those granted exceptional leave are not generally given a public funds condition.
[115] HC 395 para.322 lists some ten general grounds for refusal of leave to remain.
[116] Anti-terrorism, Crime and Security Act (2001), s22.
[117] HC 395 paras.18-20.
[118] HC 395 para.363.

'conducive good' grounds, but in court recommended cases the immigration appeal is against the destination only. Where the decision is taken on national security grounds special appeal rights apply[119].

Equal treatment

ILR carries very similar rights to the status in the Directive. A third-country national with ILR in the UK is entitled to take any employment of his or her choice or to establish him or herself in business in the UK subject to the same regulations which apply to British citizens. There is no entitlement to employment activities that involve the exercise of public authority. With regard to recognition of qualifications, any differential treatment would have to be based on objective differences in qualification standards - i.e. the overseas qualification not including education/training on issues that would be included in the UK equivalent qualification. In the event that the qualification was of equal value to a UK qualification, differential treatment might give rise to a complaint of discrimination, which would be considered by an Employment Tribunal. Equality of treatment ensures equal access to education and vocational training on the same basis as British citizens. However, to be entitled to qualify for home student fees there is a requirement that third-country nationals have been resident in the EEA for the preceding three years before the start of their course[120]. Student support is generally available for those who qualify as home students in higher education. Immigration status does not affect the duties of local education authorities to provide education for children of school age[121].

Third-country nationals with ILR status are entitled to contributory benefits if their contributions record is sufficient and non-contributory benefits after 26 weeks' residence. They also have the same entitlements as British citizens to health care, social assistance and social and tax benefits, as well as access to goods and services, including housing.

Third-country nationals have full trade union rights. If they are citizens of Commonwealth countries or the Republic of Ireland they are entitled to participate in local and national elections as both voters and candidates. Non-Commonwealth, non-EEA citizens ('aliens') have no right to vote either to local or to national elections.

Right of residence in other Member States

In the case of the UK, long-term resident third-country nationals have no right of entry to the country. The same applies to long-term resident third-country nationals resident in

[119] Special Immigration Appeals Commission Act 1997.

[120] The requirement to qualify for home fees is lifted for refugees, those granted exceptional leave following rejection of an asylum application and spouses and children of those in the above groups. The same requirement applies to qualify for student support but only for those who have been granted exceptional leave.

[121] Under the 2002 Nationality, Immigration and Asylum Act, however, local authorities are relieved of this duty for children of asylum-seekers who are placed in the new accommodation centres and who will receive separate education provided at the centre itself.

the UK, and seeking to travel to the rest of the EU[122]. The UK government does not support the extension of the right of free movement to legally resident third country national and has confirmed its intention to maintain this position[123].

With the exception of chapter III establishing a right of residence in other Member States, from the UK perspective, the proposed Directive would not have a major impact on current UK immigration legislation, as the proposal is in the main in line with the UK situation. It would, however, remove administrative discretion from the UK immigration authorities in a number of areas, which form the point of view of achieving legal certainty for migrants would be a welcome development[124].

[122] It is worth noting that the maintenance of the UK's frontier controls affects residents of the UK wishing to travel to the EU, as well as EU residents coming to the UK. The Government estimated that the number of legally resident third country nationals in the UK in 1999, who would require visas to travel to the rest of the EU, at 1 million. In the same year, in the order of 80,000 applications were made at British Diplomatic Posts in the Member States of the EU for travel to the UK. See House of Lords Select Committee on the European Union, *op. cit.*, 13th Report, para.125.

[123] See House of Lords Select Committee on the European Union , *The Legal Status of Long-term Resident Third-country Nationals*, 5th Report, Session 2001-2002, para.26.

[124] See House of Lords Select Committee on the European Union, *A Community Immigration Policy*, 13th Report, ILPA submission at para.4.8.

Chapter 4: The Open Co-ordination Method

The Commission's outline of an open method of co-ordination in the immigration field has been regarded by many commentators with concern. It was feared, for instance, that indicative targets established under the European immigration policy would effectively be treated as quotas and that migration over and above those would be extremely difficulty, to the detriment of the EU economy[125]. National governments' record in predicting labour market needs has been extremely poor and states may set targets which do not truly reflect economic needs. Furthermore, it has been pointed out that the nature of labour migration is no longer one where the state is the primary determiner of the need for labour. In this context, those who have commented upon the Commission's proposal have found it difficult to see the benefit of the synthesising of information on the admission of migrants and of laying down principles of the 'common approach' to be implemented within the EU. The process outlined seemed also too cumbersome to keep pace with the speed of developments within the labour market.

The guideline stressing the importance of a comprehensive integration policy also raised scepticism as views on integration policies differ widely across the EU. Rather than linking integration policies to immigration policy, many organisations suggested that the best approach to integration would be to address the issues of security of residence and legal equality for migrants and ensure, for instance, the right to family reunification, which is an essential element in the integration of persons already admitted[126].

---

[125] *Ibid*.

[126] *Ibid*, see submissions by ILPA, JUSTICE, JCWI.

The **Joint Council for the Welfare of Immigrants** (**JCWI**) is the leading independent non-governmental organisation in the UK working in the field of immigration, asylum and nationality law and policy.

www.jcwi.org.uk

Anneliese Baldaccini is Human Rights Legal Officer on Asylum for JUSTICE, the British Section of the International Commission of Jurists. She has acted as a consultant to the Human Rights Policy Department of the Foreign and Commonwealth Office, UK, on preparations for the United Nations World Conference Against Racism (Durban, South Africa, September 2001). She has been a researcher at the Human Rights Centre, University of Essex, and has worked as independent consultant for several human rights organisations in London in the field of minority rights, non-discrimination and asylum.

Migration Policy Group
Rue Belliard 205, box 1
B-1040 Brussels
Tel. +32 2 230 5930
Fax. +32 2 280 0925
email: info@migpolgroup.com
www.migpolgroup.com