

The ILO Decent Work Across Borders

Mobility of health professionals between the Philippines and selected EU member states: A Policy Dialogue



Executive Summary

The Effects of the Philippines Bilateral Arrangements with Selected Countries

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Nowadays, there is a shortage as well as inequitable distribution of health professionals in many countries, which together with the increasing demand on healthcare workers due to demographic changes intensifies the need for healthcare workers globally. In 2006, the World Health Organization estimated that there was a shortage of more than 4.3 million health personnel across the world and 57 countries (mainly Sub-Saharan and South-East Asian) suffered from critical shortages (WHO, 2006). On the other hand, the increasing demand on healthcare professionals due to the aging of the societies is identified in many developed countries and pushes them to international recruitment of healthcare workers. Unmanaged international recruitment of healthcare workers could have negative consequences for the sending countries, known as brain drain effect, and for the migrants themselves following the lack of sufficient protection of their human and employment rights. Brain drain in case of outflow of healthcare professionals means that the sending country is not only losing its 'best and brightest' what could have negative welfare implications (Bhagwati & Hamada, 1974), but also the outflow of healthcare professionals could endanger the 'right to health' of the remaining population (Plotnikova, 2012).

Although the primarily objective of bilateral labour arrangements (BLAs) is to facilitate recruitment of workers, it is currently recognized that they have also other objectives to achieve. Already the ILO Recommendation R86 Migration for Employment from 1949 indicated that government-to-government agreements should also aim at protection of the migrants' rights. Similarly, the Philippines' Republic Act 10022 claims that Filipino workers shall only be deployed in countries where their rights are protected and sees the existence of BLA with the receiving country as a guarantee of sufficient protection. The role of BLAs in mitigating the negative consequences of migration for sending countries either by setting the safe recruitment targets or introducing compensation measures is also well founded in national and international soft law documents. The UK Code of Practice for the international recruitment of healthcare professionals (2004) says that 'developing countries will not be targeted for recruitment, unless there is an explicit government-to-government agreement with the UK to support recruitment activities', whereas the WHO Global Code of Practice on the International Recruitment of Health Personnel from 2010 despite discouraging active recruitment of healthcare professionals from the countries with critical shortages of personnel also indicates that BLAs 'should take into account the needs of developing countries and countries with economies in transition through the adoption of appropriate [compensation] measures'.

This report discusses the findings of the study entitled "The Philippines' Bilateral Labour Arrangements on Healthcare Professional Migration" conducted between November 2012 and May 2013 with the EU funded ILO project "Decent Work Across Borders: A pilot project for Migrant Health Professionals and Skilled Workers"¹. It aimed to study how effectively the three roles of BLAs - facilitation of recruitment, protection of migrants' rights and mitigating of negative consequences of migration for sending countries, are realized in practice on the example of the BLAs on healthcare professionals' migration between one of the major health professionals' exporting countries – the Philippines and five destination countries - United Kingdom, Norway, Spain, Bahrain and Japan, all with whom the Philippines signed the government-to-government agreements dedicated to the healthcare professionals' migration. Additionally, the effectiveness of recruitment of Filipino health professionals to the Kingdom of Saudi Arabia in the absence of the government-to-government agreements was studied. The study findings are based on the combination of different research methods including both desk research (review of literature,

¹ http://www.ilo.org/manila/whatwedo/projects/WCMS_173607/lang--en/index.htm
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legislation mapping and analysis of statistics) and field research (in-depth interviews with 32 stakeholders from government authorities, national and international professional organizations and trade unions, recruitment agencies, employers and academia in sending and receiving countries, as well as 1 focus group discussion were conducted).

The findings of the study illustrate the numerous challenges in terms of its negotiation and implementation BLAs (no matter if it is recruitment agreement or memorandum of understanding) have to overcome in order to be effective in achieving any of its objectives. Due to various reasons, including particularly the asymmetry of powers during BLA's negotiation (reluctance of receiving country to enter into BLA (Go, 2007) and 'something is better than nothing' approach of sending country (Wickramasekara, 2012)), it is very difficult in practice to negotiate the agreement equipped with all mechanisms to achieve its objectives.

Moreover, as BLAs with Norway (2001), Spain (2006) and Bahrain (2007) showed, it is nevertheless even more difficult to have the negotiated agreements implemented, in particular if the receiving country is able to recruit the workers in the absence of the agreement thus having no incentive to make any binding commitments (this is also illustrated by the case of Saudi Arabia). Similarly, the example of BLA with UK shows that BLA could not have been fully effective if it is partial in its scope (e.g. not covers both private and public sector), its implementation is too bureaucratic and it misses the right timing. Finally, the importance of specifying the requirements and solving the language issue, as well as of inclusion of non-state actors in the process of BLA's negotiation and implementation is illustrated by the example of JPEPA.

The assessment of the effectiveness of bilateral agreements is finally made difficult by the frequently missing monitoring and evaluation mechanisms. This lack also disables both parties to react to the changing needs and political situation in both countries and globally, what further contributes to its lacking effectiveness. The important question is if nowadays BLAs are doomed to failure and could no longer be so effective as some of the BLAs were in its heydays in Europe in 1960s and 1970s? The author of the study believes that on the contrary – the role of BLAs nowadays is still very important but due to its new objectives, changing political circumstances as well as specific characteristics of health professional migration, their negotiation and implementation face new challenges. Therefore, several recommendations on international and national levels are proposed in order to enhance BLAs effectiveness in these new circumstances, including in particular also those related to increased circularity of migration. The main policy recommendations resulting from the study could be summarized as follows:

1. Nowadays, the objectives of bilateral labour agreements, in particular those concerning the migration of healthcare professionals, could no longer be limited only to recruitment and protection of migrants' rights. Due to the severe negative consequences the migration of health professionals could have for the sending country, the bilateral labour agreements should also include measures to address the challenges for the sending country's healthcare system resulting from the outflow (such as setting safe recruitment targets, monitoring of the healthcare system situation in the sending country during the whole duration of the agreement and inclusion of compensation measures, e.g. scholarships and exchanges of experts, joint ventures and investments in healthcare system facilities in sending countries, support by return and reintegration).

2. Although negotiation of bilateral labour agreements with receiving countries is a very difficult and challenging process, the approach 'something is better than nothing' is not very effective in practice. Many agreements exist only on paper (lack of implementation) and/or the

recruitment is done through the alternative channels. In order to enhance the chances for BLAs' implementation, the negotiation and implementation of the agreement should be supported by other mechanisms (including engagement of non-governmental actors in both countries, engagement in multi-stakeholders' initiatives, promotion of international soft law and best practices, introduction of national regulations enhancing the BLAs' effectiveness), agreements should be tailored-made for the sending and receiving countries (but including all three objectives as described in p. 1) and have a right timing. Moreover, the recruitment and implementation of the agreement must be interdependent processes as otherwise the receiving country has little incentives to enter into any commitments, in particular those concerning the guarantee of migrants' rights' protection and mitigation of negative effects of recruitment for the sending country.

3. Monitoring and evaluation of any bilateral labour agreement is very important and this importance should not be neglected. These elements must be carefully thought through at the time of BLA's negotiation and should be implemented on the regular basis. Without clear idea about BLAs' specific objectives and indicators of its success, it is afterwards very difficult to assess it and improve. Any vagueness in the content of the BLA's and/or excessive complexity of its implementation decreases the BLA's effectiveness. The regular monitoring and evaluation of BLA's effectiveness helps to better adjust the implementation process to both sending and receiving countries' current needs and increases its effectiveness in meeting the three main BLA's objectives (e.g. helps to react on any negative consequences that the outflow could have for the sending country and on other problems resulting from BLA's implementation).

4. Due to the increased circularity of nowadays' migration flows and increased popularity of the circular migration concept in many receiving countries, the bilateral labour agreements should pay special attention to addressing the special challenges linked to circular migration in terms of migrants' rights' protection (i.a. the issue of portability of social entitlements, integration support in the receiving country, access to skills and professional development) and costs and consequences of circular mobility process (in particular challenges linked to return and reintegration of migrants in their country of origin). Moreover, regular monitoring and evaluation of the agreements in the case of circular migration is even more important in order to secure the benefits from migration to all – migrants, receiving and sending country.

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