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Concept note

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Fair and effective access to labour markets for migrants and refugees: A platform for addressing challenges and sharing good practices

Labour migration and mobility characterize most migration today. Over 65 per cent of all migrants are migrant workers – 150 million or over 73 per cent of all working-age migrants – and over 44 per cent are women.¹ Europe hosts 33 per cent of all migrant workers, and together with the central and western Asian regions represents 37.7 per cent of the world total.² In addition, several million more have sought refuge in Europe or humanitarian assistance due to war, conflict, or human rights violations. The recent large flows of refugees concentrated in a handful of countries, increasing responsibility for their protection and integration disproportionately among some European countries and leading to increased economic and social tensions.

Migration governance in Europe remains fragmented across the region, especially for third-country nationals in the European Union (EU) and interregional flows across Europe and Central Asia. This results in lost opportunities for economic productivity, creates the potential for greater differences between labour markets, and widens the protection gaps.

The conclusions adopted by the general discussion on labour migration at the International Labour Conference (ILC) in June 2017 observe that well-governed labour migration can provide benefits and opportunities for all concerned: it can balance labour supply and demand, help develop and transfer skills at all levels, contribute to social protection systems, foster innovation and enrich communities both culturally and socially.³ They also recognize that poorly governed labour migration can bring risks and challenges, especially for low-wage workers through higher insecurity and informality, brain drain, child labour, and trafficking in persons.

¹ ILO: *Global estimates on migrant workers: Results and methodology* (Geneva, 2015).

² *ibid.* The figure includes 23.8 per cent in Northern, Southern, Western Europe, 9.2 per cent in Eastern Europe and 4.7 per cent in Central and Western Asia.

³ ILO: *Conclusions concerning fair and effective labour migration governance*, International Labour Conference, 106th Session, Geneva, 16 June 2017.

Racism and xenophobia fuel discrimination in society and the workplace. Migrants, asylum seekers and refugees alike can face poor working conditions and wage penalties, and lack access to social protection. Women bear double penalties as women and as migrants. They face particular risks in the area of domestic work – of all female migrant domestic workers, 11.4 per cent are in Eastern Europe and 26.6 per cent are in Northern, Southern and Western Europe.⁴

The ILC conclusions highlighted that, while temporary labour migration can be positive for labour markets by filling genuine short-term labour and skills gaps, careful consideration must be given to protecting the rights of migrant workers as well as national workers to ensure decent work, afford equal treatment, and the respect of fundamental principles and rights at work. This includes attention to removing the obstacles migrant workers face in realizing their right to freedom of association and collective bargaining.

Maximizing the benefits of labour migration and minimizing the social costs requires fair and effective labour migration governance through national, bilateral and regional cooperation. This requires appropriate strategies to foster labour market integration – a continuing challenge for European societies and institutions at all levels.

A central concern for many countries is irregular migration – migrants or refugees who may be undocumented and working in the informal economy. There is growing discussion as to whether one effective means to address irregular migration could be to open more pathways for regular migration linked to labour market needs. ILO member States have sought to open new channels in a number of ways, including by improving public administration, reducing bureaucracy and utilizing labour market information systems to better identify the needs for migrant workers at all skill levels. Social dialogue has been an effective tool for this purpose.

Regularization of migrant workers in an irregular situation, particularly those who are well integrated in the labour market or who have fallen into irregular status through no fault of their own, is another relevant option often exercised by ILO member States, including through expanding bilateral cooperation. The New York Declaration (September 2016) identified regularization as an element that could be included in the Global Compact for safe, orderly and regular migration that is currently being negotiated at the United Nations (UN).⁵ Some countries consider this in a larger policy mix to strengthen migrants' labour market integration, protection, and social inclusion.

Most migration flows through regular channels, though governance gaps are still significant. Recruitment of migrants is, for example, the first step in establishing an employment relationship. Yet the regulation and oversight of the recruitment process has meant that workers often pay high fees to labour recruiters, which can amount to a year's salary or more according to ILO and World Bank estimates, leaving workers highly indebted and at risk of being trafficked and debt bondage.⁶ Some countries are now cooperating

⁴ ILO, 2015, op. cit.

⁵ *New York Declaration for Refugees and Migrants*, Annex II, para. 8(b).

⁶ ILO: *Report for discussion at the Tripartite Meeting of Experts on Fair Recruitment: Principles and Operational Guidelines*, 5–7 September 2016, MEFR/2016; ILO: *Addressing governance challenges in a changing labour migration landscape*, Report IV, International Labour Conference, 106th Session, Geneva, 2017, para. 166.

together on fair recruitment strategies, and working with the Office to implement the ILO's fair recruitment guidelines.⁷

Recruitment is also a first entry point in determining whether skills are properly matched to jobs. However, mechanisms for recognizing foreign skills and qualifications are often lacking or inaccessible to migrants, asylum seekers and refugees, hindering their upward mobility and integration. Temporary labour migrants receive little integration support, and public employment services may not have capacity to provide assistance. Those under refugee protection can face additional obstacles due to lack of identify or education papers, language or culture. The ILO is launching a new guide to help countries facilitate skills recognition and close existing gaps.⁸ In addition, the ILO has strengthened its strategic intervention framework to support access of refugees to decent work opportunities through the adoption of Guiding Principles on access of refugees and other forcibly displaced persons to the labour market and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), which address the specific situations of migrants and refugees.

Social protection and the portability of benefits is a further area that remains particularly challenging and one where cross-border cooperation is essential. Migrant workers and their families experience significant difficulties in accessing social protection, including health care and other social security benefits.⁹ Recognizing that bilateral labour agreements can help to address these gaps if they include provisions on social protection or if they are complemented by social security agreements or adequate social security legislation, the ILO has published a guide examining these agreements as they relate to migrant workers and identifying good practices to facilitate social protection coverage of migrant workers.¹⁰

In general, evidence suggests that effective integration of refugees and migrant workers can help to improve social cohesion.¹¹ This requires stronger governance and fundamentally depends on closer cooperation among European countries. Cooperation is necessary not just between governments but through engagement of the social partners. The active involvement of social partners can bring a decisive added value for the sustainable economic and social integration of migrants and refugees. The social partners' role is important not just at the technical level (e.g. assessing and validating informal skills), but to prevent discrimination and xenophobia, and create a social and cultural environment more conducive to the integration of migrants, asylum seekers and refugees. The social partners' Labour-INT project (<http://www.labour-int.eu/>) is a good example of the *added value* they bring to European economic and societal integration processes.

⁷ ILO: Fair recruitment initiative, see <http://www.ilo.ch/global/topics/fair-recruitment/lang--en/index.htm>; and Fair recruitment guidelines, see http://www.ilo.ch/global/topics/fair-recruitment/WCMS_536755/lang--en/index.htm.

⁸ ILO: *How to facilitate the recognition of skills of migrant workers: Guide for employment service providers* (forthcoming).

⁹ ILO, 2017, op. cit., paras 51–52.

¹⁰ C. van Panhuys, S. Kazi Aoul, G. Binette: *Migrant access to social protection under Bilateral Labour Agreements: A review of 120 countries and nine bilateral arrangements*, ESS Working Paper No. 57 (ILO, Geneva, 2017).

¹¹ ILO, OECD, World Bank and IMF: *Towards a framework for fair and effective integration of migrants into the labour market*, report prepared for the G20, 19–21 December 2016.

Throughout Europe, a diverse wave of policy experimentation is developing, touching upon different stages of the integration process – from the very first stages of reception to workplace integration and involving a wide range of actors, from EU institutions, national and local governments, economic actors and social partners. The thematic session offers an opportunity for ILO constituents to address the challenges they face and share good practices at regional, national or local levels, including on experiences in supporting access of asylum seekers and refugees to labour market and livelihood opportunities. This dialogue can reinforce the ILC conclusions which called for platforms to share and exchange experience and approaches at the regional level.

A ministerial exchange of good practices could further contribute to knowledge supporting the ILO's work on labour migration and mobility, including its efforts under the 2030 Agenda for Sustainable Development target 8.8 on protecting labour rights and promoting safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment. More immediately, the exchange will help to inform the Comprehensive Refugee Response Framework and the two UN Global Compacts on refugees and on migration that are scheduled to be adopted in 2018.

The ministerial dialogue could consider, in particular, the following questions:

- What are the good practices being deployed to support integration of migrants, asylum seekers and refugees in the labour market, including to promote adequate skills and jobs matching?
- What are the most appropriate approaches to addressing irregular migration? If widening the pathways for migration is viewed as an appropriate response to meeting labour market needs, what measures can ensure decent work is central to such considerations?
- What measures can strengthen and ensure the fair recruitment of migrant workers from within Europe and for third-country nationals?
- What good practices are being utilized at local, national and regional levels to foster the deeper engagement of the social partners and social dialogue on labour migration policies and programmes, including on integration of migrants and refugees?
- How can ILO member States improve bilateral and regional cooperation across Europe and Central Asia to reinforce labour migration governance, including to strengthen social protection systems, skills recognition, and data collection?