



**“EU-Asia Dialogue –
Shaping a Common Future for Europe and Asia”**

Conference Report

“Policy Panel on Migration”

Manila / The Philippines, December 13, 2012





Manila, 13th of December 2012

Report

EU-Asia Dialogue: “Policy Panel on Migration”

On 13 December 2012, a “Policy Panel on Migration” of the EU-Asia Dialogue took place in Manila, the Philippines. The full-day event, which brought together experts, academics and policy-makers from Europe and Asia, focussed on policy innovations to tackle migration in sending and receiving countries. The aim of the policy panel was to discuss legal frameworks and best practices from Europe and Asia on governing migration. The role of state authorities, migrants and civil society was of particular interest. More broadly, participants were asked to identify opportunities for closer cooperation between the European Union and its Member States and Asia with respect to migration policies. Altogether, 22 policymakers and researchers from Europe and Asia participated in the event.

The “Policy Panel on Migration” began with the opening remarks by **Dr. Wilhelm Hofmeister**, Director Regional Programme Political Dialogue with Asia, Konrad-Adenauer-Stiftung, Singapore. He noted that periods of weak economic development / recession are precisely the time when states and societies need enthusiasm and ideas to solve societal challenges. This EU-funded project will look at lessons learnt in Europe and Asia, and will be used as an avenue through which to exchange experiences and develop greater understanding of the prospects and challenges in each region.

Mr. Julian Vassallo, Political Counsellor, Delegation of the European Union to the Philippines, delivered the second opening remarks and pointed out that migration is a global concern which asks for global governance solutions. In this vein, the EU sees ASEAN as a key partner, which falls within the EU framework ‘Global Approach to Migration [GAM]’. The EU cooperates closely with the Philippines government to tackle issues of illegal migration and human trafficking. The EU also wants to optimize the benefits of migration, so that it can contribute to development and resolve the causes of migration. Additionally, the Delegations of the European Union in Asia have a partnership with the International Labour Organization (ILO).

Four topics are of particular interest to the European Union: Remittances (according to



Vassallo, these are private sources of income and this has to be respected by governments), associations / communities, diasporas (as a source for remittances, channel to connect and lobbying groups) and brain drain / circular migration.

In order to achieve a functioning migration framework, several conditions have to be fulfilled: investments in locals and diasporas help to build capacity, data on frameworks have to be collected regularly, partnerships between local and private sector as well as receiving and sending countries have to be fostered and institutionalized. Moreover, political commitment from both countries is required.

Some of the key gaps from either region are the levels of trust between states and societies over the issue of migration, the levels of personal security and institutional legal rights that are guaranteed, and the social impact of those left behind (i.e. the families of migrants).

Session I: Migration in Europe and Asia

The first session started with a presentation by **Mr. Ricardo Casco**, Mission Coordinator / National Programme Officer Philippines, International Organization for Migration, who provided an *Overview of Migration between Europe and Asia*. He stressed that recent developments in Europe influenced the migration flows. For instance, the economic recovery of most OECD countries remains fragile with a high unemployment rate and the debt crisis in Southern Europe makes it more difficult for migrants to find a job. Especially countries strongly hit by the crisis saw a decline in the inflow of permanent migrants, while other countries, such as Germany or the UK, had a rebound of permanent migration.

The number of high and medium-skilled migrants to the USA and Canada is still much bigger than that to Europe, which seems to attract more low skilled workers. At the same time, education levels increase globally which causes in an increase in skilled immigration. In particular, the number of international students from Asia is growing in Europe. This selective migration process results in the situation that Asian migrants are often better educated than the local population in receiving countries.

Asia is one of the most important regions with regard to migration due to its highly populated countries and good economic development. The number of Asian migrants to Europe increased from 17% of the total migrants in the mid-2000s to 30% in 2010. The majority of migrants from Colombo Process Countries concentrate on Germany, Italy and Spain. But, in general, EU Member States remain a limited destination for Asian migrants. Three sub-regions gaining importance in this context are: Northern Europe (Finland, Sweden), Mediterranean countries (Portugal, Spain, Italy) and new EU Member States (Czech Republic, Poland). While most migration in both regions has an intra-regional character, Europe is the second biggest destination region for Asian migrants and Asia is



the second biggest sending region of migrants to Europe. These movements between Europe and Asia are, however, not focussed on labour migration, but also include students and refugees. While labour migration and education are still the key motivation for moving to Europe, family reunification accounts for 25% of entries.

Casco highlighted the importance of the Colombo Process as an informal political dialogue in Asia. The gender dynamics were also noted in that female migrants largely migrate from Philippines, Thailand, and Indonesia for domestic work, whereas male migrants are of South Asia origin and migrate for low-skilled jobs.

At the end of his presentation Mr. Casco addressed recent developments in Asia which might change its role in international migration. The fertility rate has fallen below the replacement rate in a number of countries which is why they entered the stage as new destination countries. The younger generations are becoming increasingly educated and participate strongly actively in the global labour division and competition. The economic development of the region makes it less attractive for Asian workers to emigrate and, at the same time, attracts migrants from outside Asia. Sending countries of migration also have to be concerned about how to include the returnees' capacity into their labour market. Casco mentioned that the EU faces many challenges as well. The many Asian students coming to Europe do not have a permission to stay after graduation and Member States show a lack of willingness to open and change for migrants. Especially language and culture are very sensitive topics in this regard. But, as most European countries now need migrants as a source of labour supply, they have to modify this attitude. He concluded that more bilateral and multilateral discussions are needed. Especially, more cooperation between researchers and policymakers is required to explore obstacles and solutions.

Mr. Luc Leboeuf, Researcher, Université Catholique de Louvain, presented *Migration Policies in Europe and the EU*, providing a thorough legal examination of the European migration system. Although migration has been an ongoing process ever since the European integration process started, it was only in 1999, when the Amsterdam Treaty became effective, that a legal basis was provided. Migration was explicitly mentioned in Article 77 of the Treaty on the Functioning of the European Union. After the signing of the Amsterdam Treaty in 1997, it was the aim to develop a comprehensive migration policy and the Tampere Conclusion in 1999 showed first attempts towards harmonization efforts. Over the years, it was realized the Member States will not be able to agree on a harmonizing function of the EU with regard to migration. The enthusiasm for a comprehensive approach changed to realism and a more sectorial process. This was observable in the 2005 Policy Plan on Legal Migration.

The European Union clearly differentiates between high-skilled workers and low-skilled workers. Three groups are classified as high-skilled workers and are defined in individual



directives: students (Students Directive 2004/114), scientific researchers (Research Directive 2005/71) and highly qualified workers (Blue Card Directive 2009/50). Despite these directives, Member States are allowed to adopt further restrictions to protect their labour market, which shows the limitations of the capacity of the European Union to interfere. The European Union released common admission requirements for all high-skilled workers, but also specific requirements for the three groups. The admission requirements are a field of minimal harmonisation as Member States can decide on the basis of domestic legal schemes, even if the EU requirements are fulfilled or not fulfilled. Until today, no directive clearly addresses low-skilled workers as the EU wants to attract mainly high-skilled workers. The Employer's Sanctions Directives 2009/52 allows financial sanctions and criminal penalties against employers of illegally staying third-country nationals. Currently, the EU is developing a directive on seasonal workers which would address a specific group of low-skilled migrants.

While there is very little substantial harmonisation which allows for great policy flexibility at national level, procedural harmonisation efforts can be observed in recent years. An example is the Single Application Procedure (Directive 2011/98) which should simplify administration through issuing a single permit for residence and work purposes guaranteeing a set of rights to legal migrants. This directive is not yet a legal document. Lebeouf concluded that this procedural harmonisation may be the first step towards a coherent EU labour migration policy.

At the end of this session **Mr. Patrick Rueppel**, Program Manager "EU-Asia Dialogue, Konrad-Adenauer-Stiftung, Singapore, presented the findings of a research paper on *Labour Migration and Integration in ASEAN** by Brenda S.A. Yeoh and Miriam Ee. The authors argue that the different levels of economic development are strong push- and pull-factors, intensifying the migration flows as well as directions in the region. ASEAN includes net receiving and net sending countries as well as states which show character of both categories. The general direction of migration is towards the wealthier countries which are more liberal in their admission policies and driven by demand and lack of supply.

The labour market shows a clear segmentation into high-skilled workers and low-skilled workers resulting in a two-tier immigration policy. High-Skilled workers are treated preferentially and are encouraged to stay. Singapore is the most aggressive country in attracting this group, while Malaysia and Thailand differentiate more between local and FDI companies. Low-Skilled migrants, on the other hand, face many restrictions, receive only temporary contracts and are seen as a 'use and discard'-source.

* This paper was written for the EU-Asia Dialogue and can be downloaded on www.eu-asia.eu



An increasing problem in Southeast-Asia is illegal migration. Due to high costs as well as legal and physical barriers, the number of undocumented migrants has been increasing over the past years. While some countries are discussing amnesty-programmes, there is no regulation on the regional level.

In 2004, the ASEAN Framework Agreement for Integration of Priority Sectors (FA) was signed and is the first regional attempt to tackle migration. However, the FA concerns only value-adding economic growth such as the movement of high-skilled migrants. Low-skilled and unskilled migrants, who are facing more problems, do not fall under this agreement. Mr Rueppel concluded by highlighting the factors hindering a proper regional agreement. Firstly, the socio-economic, political and demographic landscape is very heterogeneous, resulting in different national interests. Even the EU, which is more homogeneous and advanced in terms of regional cooperation, is still missing a comprehensive migration policy. Secondly, most of ASEAN's agreements are concerned with value-adding economic growth. Thirdly, the 'ASEAN Way' of non-interfering and giving priority to sovereignty as well as domestic policies makes it difficult to regulate migration on the regional level as this would require amendments to domestic policies. As a result, more bilateral agreements and Memoranda of Understanding are signed.

In the discussion that followed, it was highlighted that more government to government processes are needed. But it has to be acknowledged that government policies have limited impact on regulating the flow of people. As such it is important to keep this in mind when considering policy options as it could mean forcing migration underground into the black and grey economies. It was mentioned that there is divergence over some aspects of terminology. 'Europe' and 'EU' should not be used interchangeably, which causes some difficulty when considering countries such as Turkey.

Another important topic was the role of recruitment agencies. Some countries ask emigrants to approach agencies with high prices and bureaucratic burdens, which forces many people to migrate through unofficial channels. It is important to consider this problem when designing migration policies.

It was noted that in Asia as compared to the EU there was a difference between migration regimes as education and experience were not the only factors in determining working permits and visas in Asia. The salary level of workers is conditional as well.

The level of EU harmonisation was seen as substantially 'very low', but a common agreement with an existing return directive, providing some context to the notions of 'complex' regionalism and regional architecture. ASEAN Member States, on the other hand, have a preference for signing multiple bilateral agreements, but lack a regional context. At the same time, it was mentioned that other regional initiatives of the ASEAN, such as the ASEAN Committee on Migrant Workers (ACMW), are working on an agreement.



A huge problem is the recognition of skills. Nowadays many migrants receive a tertiary education, but this degree is not accepted abroad, resulting in a critical brain waste.

Session II: Migration Policies of Sending Countries of Migration

Dr. Jorge Tigno, Associate Professor, University of the Philippines, Diliman, gave a presentation on *The Philippines: Challenges for a Sending Country of Migration*. The Philippines started their migration policies in the 1970s as temporary stop-gap measures. These measures have evolved into a ‘permanent’ policy, but lack proper coordination. Migration is an important economic source for the country, but there is an increasing recognition of the need to protect the rights of migrants and make use of the migration-development nexus.

The Philippines face a number of challenges. There is a dissonance between migration movements and declared policies. The existing migration agencies focus on sending people out, but not on re-integrating returnees. An overall coordination between the government agencies and policies is missing completely. Data on migration and returnees is very difficult to access, although it has to be provided due to a law from 1995. In addition, a system to use remittances and their multiplier effect does not exist. Coordination and cooperation between policymakers and researchers do not take place. At the end of his presentation, Dr. Tigno provided possible solutions to these challenges. The protection system for migrants has to be more proactive. A comprehensive national policy document on migration can help to manage the issue and provide a basis for greater coordination between the agencies. Data collection should be centralized to make information on migration easily available and transparent. By providing capacity-building to local governments, a link between remittances and local development could be established to create spill-over effects. A regional framework among Asian countries is required to allow for better coordination between national authorities.

A presentation on *Migration in India* was delivered by **Mr. Pawan Khera**, Political Secretary and Officer on Special Duty to the Chief Minister of Delhi, India. Due to its size, not only international migration, but also inter- and intrastate migration within India is a huge factor. All problems of international migration can be observed within the country as people move from the poorer to the richer states and send remittances to their hometown. The country is lacking policies to tackle the economic, demographic, social and environmental consequences. Different from the Philippines, the number of male migrants is much higher in India than females. Due to the domestic movement of people, economic disparities between the states are growing. Another problem is that skills are often mismatched and people do not work in the same industry. The rights of the migrants are very limited with no social security nets, no access to public services and



EU Centre in Singapore

exploitation at the workplace. The language barrier stops interaction between the groups and locals see migrants as the “others”. India has no national migration policy, but programs such as the NREGA (National Rural Employment Guarantee Act) try to improve conditions in sending regions.

Mr. Khera recommended to address knowledge gaps on internal migration and to improve living standards in sending states. If migration is not avoided, a policy to enable proactive phased movement of people needs to be developed which provides migrants with skills and awareness of their rights.

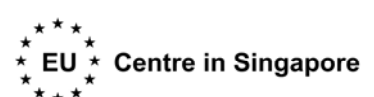
The last presentation of this session on *Civil Society Organisations – Partners in Migration?* was given by **Dr. Stephan Rother**, Research Fellow, Arnold Bergstraesser Institute for Socio-Cultural Research, University of Freiburg. Dr. Rother started his presentation by addressing problems of civil society organizations. Among others, these are legitimacy, internal democratic structure, representation of particular interests, hidden political agenda and dependency on funding. Opportunities for NGOs include connection to the ground, ability to challenge dominant paradigms and think out of the box, as well as transnational activism and independence from diplomatic restrictions.

The presentation also focused on the social movement unionism found in Hong Kong by migrant workers there, and noted that the number of civil society groups there have grown and are not bound by diplomatic restrictions but by legal ones. Filipinos living in Hong Kong also get engaged in local politics in the Philippines. For instance, they organise protests demanding for more rights or less bureaucratic burdens.

Dr. Rother concluded by providing considerations for policies. At the national level, policies have to support participation and included consultations with civil society representatives. This also involves trust-building between governments and NGOs. On the regional and global level, migrant civil society needs a political space to act and be heard.

During the discussion it was mentioned that remittances should be used more effectively to create synergy effects, but it has to be respected that they are a private source of income. South Korea did accumulate remittances in the 1970s to foster the industrialisation of the country and was quite successful with this approach. Thus, a proper usage of remittances on the local level can have multiplier effects. India, on the other hand, does not touch the remittances as they are purely private money.

The Philippines are a good role model in terms of existing laws, but the implementation is questionable. Through an umbrella organization, a better coordination of the implementation could be guaranteed. As migration policies touch upon a high diversity of topics, one single umbrella organization will not be able to coordinate all issues which is why sectorial umbrella organizations might be useful.



Two additional topics raised were the re-integration of returnees and the need to make better use of local human resources and diversify their education. Otherwise, a huge oversupply like in the Philippines will be the consequence.

Session III: Migration Policies of Receiving Countries of Migration

The third session of the Policy Panel included two presentations on Malaysia and South Korea as examples of receiving countries of migration in Asia. **Prof. Azizah Kassim**, Research Fellow, Universiti Kebangsaan Malaysia, gave a presentation on *Malaysia: Migration in an Emerging Market*. Prof. Kassim began her speech by saying that Malaysia is a multiethnic country and, thus, migration is difficult to be managed. Foreign Workers (FW) in Malaysia are divided into highly skilled workers (HSW) and low skilled foreign workers (LSFW) which are then again divided into legal foreign workers (LFW) and irregular migrant workers (IMW). While LSFW are perceived as a too large and highly problematic group, HSW should be attracted. This results in two separate policies for both groups which are also managed by separate divisions in the Department of Immigration. After providing definitions for each group, Prof. Kassim showed that the number of HSW is decreasing since 2004 while the number of IMW is increasing.

The policies on LSFW are very restrictive. No legal framework existed in the 1970s and 1980s, making foreign workers automatically illegal migrants. Thus, a guideline for FW, known as Foreign Worker Policy although it is no real policy, was introduced to encourage legal recruitment of FW, in order to increase the number of legal FW and limit the expansion of IMW. This short-term measure to overcome labour shortage should complement long-term measures which are not implemented yet. In addition, a guideline on employment of FW was introduced which states that locals have to be prioritized for jobs and only if local labour is not available, FW can be hired. An exception is given to FDI companies who invest in Malaysia. Many policies have been in place for decades and need to be amended; for instance, the Employment Act of 1955 or the Immigration Act of 1959 / 1963. The government also formed the Cabinet Committee on Foreign Workers (CCFW), which was renamed Cabinet Committee on Foreign Workers and Illegal Immigrants (CCFWII) in 2008. Additional measures since 2005 are the reorganisation of recruitment processes, establishment of ATIPSOM (Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act) to allow victims of trafficking access to justice and to give them immunity from the Immigration Act, and the 6p comprehensive program. An evaluation of introduced policies shows that the number of legal FW increased until 2007 and decreased after that, but is accompanied by an exponential increase in IMW. Due to these unintended effects, frequent changes, general policy weakness and problems in policy implementation, the policies are strongly criticized, although they were able to



overcome labour shortage and ensure economic growth. Recommendations include the implementation of a long-term FW Policy and Government-to-Government recruitment processes.

The policies on HSW, on the other hand, are inclusive, providing them with opportunities for local integration and protecting their rights. In 2011, Talent Corp was established to attract and manage talents. Recommendations by Talent Corp include the development of local talents through better education, to establish contact to Malaysian skilled workers overseas and facilitate their return, and to increase the recruitment of foreign talents.

The second presentation of this session on *South Korea: Management of Migration in East Asia* was given by **Prof. Dong-Hoon Seol**, Chonbuk National University, Republic of Korea. Prof. Seol started his presentation by highlighting three important migration transitions which shaped Korean policies. After being one of the world's poorest countries in the 1950s, Korea has transformed into a highly developed country which had also impacts on the migration flows. In 1987, more foreign workers migrated to Korea than the number of Koreans who emigrated. In 1995, the number of foreign brides overtook foreign husbands in annual international marriages. Finally, in 2006 the number of immigrants in the annual migration flows became bigger than the number of emigrants. Immigrants can be divided mainly into three groups: foreign migrant workers (high-skilled and low-skilled), marriage-based immigrants and foreign students whose number is growing due to improvements of the Korean education system. The fourth big group are undocumented migrants which account for 87,000 immigrants (official numbers) to 700,000 immigrants (unofficial numbers).

The Korean policy on low-skilled foreign workers follows five basic principles which ensure non-discrimination, transparency, supplement of the domestic labour market, and prevent settlement and the hindrance of the industrial restructuring. In addition, Korean Support Centers for foreign workers were established and the Employment Permit Program was introduced to provide basic social integration. However, a permanent settlement is not desired and, thus, no language courses or cultural adaptation programs are offered to low-skilled workers. In 2003, the Foreign Migrants Workers-Act was adopted.

High-skilled workers are treated preferentially again. Professional migrant workers face fewer regulations such as quotas, time-limitation of stay or labour market tests. Attractive policies shall moreover create a brain gain through migration. However, special integration programs are currently not implemented.

The Immigration Control Act and the Korean Nationality Act facilitate the issuance of visas to enable marriage-based migrants to settle in Korea and eventually become naturalized citizens. This group is also target to integration policies.

Ethnic Koreans living overseas get a special visa which, in combination with an address



on the identification card, allows them multiple-entries for three years and gives them access to financial institutes as well as government benefits. An interesting aspect in this context is the 'Happy Return Programme'. This is a well-developed program to facilitate the return of ethnic Koreans to South Korea and assist with their integration.

Prof. Seol concluded by pointing out future challenges with regard to migration in South Korea. Among others, these are rise of anti-foreigner movements, the role of civil-society in integration and the relationship between Koreans and migrants.

The discussion that followed identified the treatment of returnees as a problem. The responsibility for this group lies purely on the original sending country and hardly any measures are being taken in the receiving societies. As a consequence, many migrants overstay illegally. As the push-factors for going abroad remain in many Asian countries, it is also questionable why migrants should return. In order to ease the situation, receiving countries could allow former immigrants who returned home to re-enter and provide them with integration activities. This would create circular migration flows which are beneficial to for both countries.

The second important topic was illegal migration. Besides the mentioned re-integration problems, the high levies for some employers force people to migrate illegally since these fees are often passed on to the employees. Malaysia (Anti-Trafficking-Act ATIPSOM) and South Korea (Anti-Discrimination-Act) have recently started to tackle this issue. While the high agency fees are a push-factor for illegal migration, a tighter control of the agencies might also result in an increase in undocumented migration as illegal agencies might be established.

Session IV: How to promote in-depth cooperation between Europe and Asia on migration?

The final session of the Policy Panel was chaired by **Dr. Alistair Cook**, Visiting Research Fellow, East-Asian-Institute Singapore, and was dedicated to discuss fields for a closer cooperation between Europe and Asia. Among the topics discussed were:

- The transfer of qualifications across borders and the potential for proposing a 'clearing house' to determine level and quality of qualification;
- "Students" were also a common theme – who, how, under what conditions can they migrate to a country to study and subsequently stay, or do they return home?;
- The return of migrant workers – lower-skilled workers are presumed to return at the end of a contract (a temporary population for a receiving country), and so the burden is borne by the home countries to reintegrate them;



- A placement fee or levy placed on recruiting workers is usually passed on to the workers themselves to pay off rather than being paid for by the employer. The agents' behaviour in this regard is an area worthy of further exploration;
- The poor integration of migrant workers into a host community, in some cases. During a recession, there is an upturn in migrant workers versus local workers because the conditions are lower for migrant workers (fewer holidays and financial contributions, for example) and so are more attractive to employers;
- A comparison of governmental responses in engaging migrant communities (sending/receiving) might illustrate some interesting findings. Notably in Asia, because of low-capacity of governments, many more stakeholders are involved in the policy process and delivery (NGOs, for example), and they actively engage their overseas workers through a variety of policy measures and tap into that resource whereas this was seemingly different to the European experience of a more formalised regime and less engagement of diaspora (to varying degrees across countries);
- Europe and the EU can be important stakeholders in the discussion:
 - Europe can learn from Asia on bilateral agreements between countries;
 - EU can show Asia possible ways of law enforcement;
 - Both regions can cooperate on the negative aspects of migration e.g. illegal migration, recognition of skills, multiple-entry visas etc.;
 - Both region can foster a policy-research-exchange;
 - Asia and Europe are competitors for high skilled workers and should work together to avoid dissonances.



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