



# EU-ASIA DIALOGUE

*Shaping a Common Future for Europe and Asia –  
Sharing Policy Innovation and Best Practices in Addressing Common Challenges*

## Conference Report

# Policy Panel

## Legal Migration Policies in Asia and the EU - Common Problems and Challenges?"

Brussels / Belgium, March 6, 2013





Brussels, 6<sup>th</sup> of March 2013

## Report

### Policy Panel on Migration:

#### “Legal Migration Policies in Asia and the EU - Common Problems and Challenges?”

On 6<sup>th</sup> of March 2013, a policy panel on migration “Legal migration policies in Asia and the EU - Common problems and challenges?” of the EU-Asia Dialogue took place in Brussels, Belgium. The 2-hour discussion focussed on migration policies in selected Asian countries, the ASEAN and the EU. The aim of the policy panel was to discuss legal frameworks in both regions and identify common challenges for Europe and Asia on governing migration. Altogether, 30 policymakers and researchers from Europe and Asia participated in the event.

**Wilhelm Hofmeister**, Director, Regional Programme Political Dialogue with Asia, Singapore Office of the **Konrad-Adenauer-Stiftung**, opened the event by presenting the overall aim of the ‘EU-Asia Dialogue’ project and the activities included in the project’s seven clusters, which are taking place both in Europe and Asia.



The Panel (f.l.t.r.): Dr. Wilhelm Hofmeister (Konrad-Adenauer-Stiftung Singapore), Mr. José Diez Verdejo (European Commission, DG Home Affairs), Dr. Yves Pascouau (European Policy Centre), Mr. Sinapan Samydrorai (Task Force on ASEAN Migrant Workers), Dr. Graziano Battistella (Scalabrini Migration Center), Alex Lazarowicz (European Policy Centre),



EU Centre in Singapore

**Graziano Battistella**, Director, **Scalabrini Migration Center**, Philippines, addressed the issue of migration policies in Japan, South Korea and Taiwan. He started by saying that those three case studies present a number of similarities in demographic trends (i.e. an ageing population), the state of the economy (notably between South Korea and Taiwan) and a low unemployment rate. Japan's migration policy can be described as a 'side door' policy, due to the lack of a proper policy in that area. The reason for this is two-fold. The government wants to avoid a decrease in labour productivity and keeping a culturally homogenous country.

At the same time Japan tried to counterbalance such an approach with a number of specific initiatives, including the introduction of a two-year programme for foreign trainees (mostly from China), allowing the descendants of Japanese migrants abroad, notably from Latin America, to return to Japan with their families as well as by opening the possibility for high-skilled nurses and care-takers from Indonesia and Philippines to settle in the country on a temporary basis. In addition, the Japanese authorities adopted a programme for highly-qualified foreign professionals in technical subjects.

Battistella then showed how Taiwan has adopted, on the contrary, a fully-fledged labour migration policy aimed at limiting the long-term settlement of foreign workers from Thailand, the Philippines, Indonesia and Vietnam in the country. However, thanks to a brokering system provided by national private agencies, foreign workers have managed to obtain a regular extension of their visas to Taiwan.

South Korea presents a third type of migration policy, based on the European experience of 'government-to-government' agreements. He said three categories of temporary visas are currently in use: an 'employment permit system' organised through intergovernmental agreements with 15 Asia countries, a programme for ethnic Koreans immigrating from China and Russia, and an assimilationist programme for non-Korean spouses.

He finally highlighted the existence of three main challenges to be tackled by those Asian countries in the field of labour migration: the long-term sustainability of Japan's lack of a proper migration policy, the practical suitability of South Korea's temporary migration schemes and, more generally, the governability of the existing patterns of temporary migration without family reunification, both in those countries and more generally.

**Yves Pascouau**, Senior Policy Analyst, **European Policy Centre**, stressed how the situation in Japan seems strikingly similar to the one at EU level, with comparable demographic challenges and shortages in the available labour force, and the lack of a common migration policy combined with a selective approach in EU member states. He also highlighted the fact that family reunification represents a true challenge for Europe, too.



**Sinapan Samydorai**, Convenor and Consultant, Task Force on ASEAN Migrant Workers, Singapore, illustrated the existing labour migration trends in the Association of South-East Asian Nations (ASEAN) region.

One of the key points is that the region has experienced considerable levels of economic growth in the last decade. He noted that, against the background of the remarkable size of the population in the region and the fact that about half of the working population is involved in the informal sector, 14 million labour migrants are present in the region, among which are at least four million undocumented migrants.

In 2007 ASEAN issued a declaration on the protection and promotion of the rights of migrant workers, which could help to foster the economic integration that ASEAN is pursuing nowadays. He stressed that ASEAN is trying to tackle the issue of migrant workers first, before then moving to solve the issue of the undocumented workers.

The 2007 declaration gave way to the creation of a Committee on ASEAN workers in 2008, which is tasked, among other things, with developing ASEAN *ad hoc* instruments. The ASEAN Charter 2008 made that organisation a legal entity, allowing it to have agreements with other countries and organisations, including in the migration area. Samydorai illustrated that the Committee is running a number of programmes, including the ASEAN Forum of Migrant Labour, where various stakeholders meet with the civil society on an annual basis, and an ASEAN Task Force with civil society and trade unions. The Forum is organised as a joint exercise between the International Labour Organisation (ILO), ASEAN member states and the Task Force itself. A number of drafting teams were formed in 2009, being initially divided between receiving countries and sending countries (10 countries in total). So far, five forums took place. The Task Force spent two years making proposals, in consultation with member countries, both at regional and national level, including on a number of joint commitments and recommendations for sending and receiving countries.

He then stated that a new negotiation team had been formed recently, designed to reach an agreement on an ASEAN framework for labour migration by 2015. But the exact legal nature of such a deal is being debated, since receiving countries are pushing for a legally-binding convention. In the meantime, some agreements, e.g. on visa-free circulation of tourists in the ASEAN region, have been reached. Moreover, he noted, in 1999 talks kicked off over the recognition of qualifications in a number of service sectors in seven professional areas and a final agreement was reached in 2012, although some elements still need to be finalised. The main challenge to the integration of labour migration policies in the ASEAN region is due to the gap between countries having a majority of low-skilled workers and those where a high-skilled labour force is abundant. Another problematic issue is the lack of administrative capacity to implement common



decisions in this area. Irregular immigration also poses a number of legal, political and humanitarian difficulties, since undocumented migrants remain very vulnerable in the region. He concluded that this is an area where ASEAN could possibly learn from the EU's experience.

**Yves Pascouau** noted that some interesting similarities exist between the two regions, while both perceptions and rules tend to differ. For example, non-discrimination is a core principle when it comes to wages in the EU, whereas the opposite seems common practice in Asia.

By introducing the role of the EU as a framework where migration policies can be adopted, he observed that legal migration is an issue where the EU still keeps a very sectorial approach, aimed at just a few categories of legal migrants, such as students and high-skilled workers.

He claimed that the EU lacks a global migration policy and an overall strategy in this area, and is still waiting for an EU migration policy to be adopted. This cannot happen before 2014-2015, due to political change in a number of member states and the renewal of the EU institutions, although a negotiation process is already on-going on both the Intra-corporate Transferees and Seasonal Workers' Directives.

**Alex Lazarowicz**, Junior Policy Analyst, **European Policy Centre**, observed that it is very difficult to speak about common needs between the EU and Asia in the field of labour migration. However some migration trends tend to converge on both continents, for example shortages of high-skilled workers, leading to the adoption of ad hoc policy initiatives, as identified at EU level in 2005: these include the Blue Card and the Single Permit Directives.

The situation has nonetheless changed in recent years, especially due to a rise in unemployment and toxic political discourse, which have made things more difficult. In a European perspective, he said, Asian high-skilled workers are in particular demand nowadays as many of them are trying to return to their home countries due to rising wages there and increased intra-regional mobility.

He also noted that more intra-Asia migration flows are expected in the near future, making Europe a less attractive destination for high-skilled migrants from that region. In spite of this, the 2010 proposal of the Commission aimed to achieve, among other things, transparent and harmonised conditions for the admission of intra-corporate transferees, and more efficient allocation and re-allocation for trainees, managers and specialists, in order to reach the EU's 2020 goals and meet the EU's commitments in international trade agreements.

Negotiations on this subject began in 2012, despite delays due to the election of the



European Parliament rapporteurs and the pre-existing commitments by the European Council on the EU's asylum policy. A number of difficulties remain, he claimed: firstly, the European Parliament is worried that the Council's proposals might lead to a parallel, and more flexible, system of intra-corporate transferees; secondly, the goal of providing harmonised conditions still needs to be achieved; and thirdly, the focus on equal treatment remains strong in the Parliament, especially in order to avoid risks of 'wage dumping'.

The issue of intra-EU mobility has not been discussed yet in negotiations, but various proposals have been presented both by the Council and the Parliament. The Council proposed a re-examination by member states, which could harm the attractiveness of the EU's future legal framework for companies having non-EU transferees. Also, a reinforcement of the temporary nature of intra-corporate transfers is being proposed, which might imply that a transferee willing to come back to Europe after a first period of staying might have to wait three years before being re-admitted, which seems to go against many business practices. There is thus still a long way to go, he concluded.

**José Díez Verdejo**, Policy Officer, DG Home Affairs, **European Commission**, introduced his presentation on the Seasonal Workers' Directive by giving some general context. He made clear that EU policies towards EU and non-EU labour migrants respectively are regulated by different rules.

While migration in the EU is a shared competence, the EU still has a mandate to regulate conditions of entry and residence for non EU migrants, but member states retain the right to decide upon the exact numbers of extra-EU workers to be allowed. This explains some inconsistencies in EU policies in this area, he argued.

The EU has adopted six directives on legal labour migration, including on family reunification and long-term residence under the Single Permit, and is now in the middle of negotiations on both intra-corporate transferees and seasonal workers, he said. While the need for seasonal workers in Europe is clear, the need for regulation is also evident.

Irregular migration and exploitation is a widespread phenomenon which the Commission would like to reduce. As such, he concluded, the main objective of the directive is to facilitate the re-entry of temporary non-EU workers, by reducing the bureaucratic steps needed and establishing a system of guarantees for complaints.

#### **Discussion:**

During the Q&A session, representatives from the audience criticised a persisting lack of transparency and harmonisation in EU legal migration policies, due to the heterogeneity of visa-issuing procedures by EU member states.



**Díez Verdejo** highlighted that the EU managed to harmonise rules only for short-term (i.e. three months or less) workers. Member states have then to respect some minimum standards provided by EU legislation, he added. All in all, the complexity of the issue is high but the Commission is trying to tackle the lack of information by establishing an ad hoc information portal for non-EU labour migrants.

**Pascouau** underlined that, until a certain point in the near past, short-term visas were not considered as part of the legal migration scheme, but were rather tackled through a security-focussed approach. On EU directives adopted so far in the area of legal migration, especially those on non-EU students, researchers and high-skilled workers, he emphasised that two reports by the Commission had been issued, stating that member states are not correctly implementing that directive, which weakens the path of harmonisation.

He then noted that the Highly-skilled Workers' Directive is particularly difficult to implement in a transparent way, which, combined with the poor quality of intra-EU mobility regulation, makes the European Union a rather unattractive destination for high-skilled labour migrants, despite the huge need for them within the EU.

**Hofmeister** also stressed the lack of harmonisation policies as a main problem faced by Asian workers interested in moving to Europe, in addition to the lack of protection for unskilled workers. The increases competition for high-skilled workers among a number of Asian countries, including Singapore, Taiwan and South Korea, might further worsen the mismatch between demand and supply in EU labour markets.

**Battistella** observed that, generally speaking, the bulk of demand for labour in Europe and elsewhere is still concentrated in the highest and lowest layers of the professional board. He then argued that combining protection for workers and economically sustainable levels of regulation remains a common challenge both in Europe and Asia.

**Samydorai** briefly described the situation in Singapore and its national scheme for foreign workers, especially Indian and Chinese skilled workers who can easily integrate into the country due to cultural similarities with the local population.

Finally, **Battistella** highlighted that Singapore's labour policies present an unbalanced mix of pro-high skilled worker incentives and anti-low skilled migrant disincentives, which have contributed, among other things, an increment of what he described as a rather problematic dependence of that country on foreign workers. He finally stressed the fact that both the declining level of productivity and the depending ratio in Western societies, as well as in Asia's richest countries, will ultimately have to be tackled through a number of measures going beyond purely migration policies.



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This project is supported by the European Union



A project implemented by the contractor

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