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Europe 2020: Addressing Low Skill Labour Migration
at times of Fragile Recovery

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Abstract

In the current context of deep recession since 2008, acute Eurozone crisis since 2009 and fragile recovery as of 2013, managing effectively labour migration is crucial and at the same time it may seem a balancing act between opposed concerns: why would we need immigration if domestic unemployment is high? Why don't we encourage more intra-EU mobility to deal with differences in member state labour markets and further restrict immigration from third countries? This policy paper argues that there are some labour market sectors where ethnicisation (these are "migrant" jobs) persists and resists the crisis effects: natives do not want to take jobs in cleaning and caring even if they are unemployed. Moreover, to be unemployed does not make someone skilled for working in the cleaning and caring sector. Such sectors have been so far outside the scope of EU policy initiatives for managing labour migration and there is a gap there that needs to be addressed. We propose here an EU level sectorial approach, particularly looking at the domestic work sector.

Keywords

Labour migration, domestic work, migration management, sectorial approach

Executive Summary

In the current context of deep recession since 2008, acute Eurozone crisis since 2009 and fragile recovery as of 2013, managing effectively labour migration is crucial and at the same time it may seem a balancing act between opposed concerns: why would we need immigration if domestic unemployment is high? Why don't we encourage more intra-EU mobility to deal with differences in member state labour markets and further restrict immigration from third countries? This policy paper argues that **there are some labour market sectors where ethnicisation (these are "migrant" jobs) persists and resists the crisis effects**: natives do not want to take jobs in cleaning and caring even if they are unemployed. Moreover, to be unemployed does not make someone skilled for working in the cleaning and caring sector. Such sectors have been so far outside the scope of EU policy initiatives for managing labour migration and there is a gap there that needs to be addressed. We propose here **an EU level sectorial approach**, particularly looking at the **domestic work sector**.

What this Policy Paper is About?

The management of labour migration is a key priority for the EU and is closely linked to the Europe 2020 strategic goals for employment and growth. This Policy Paper proposes a sectorial management of labour migration in the EU, for specific sectors where there is a strong presence and continuous demand for migrant workers, particularly looking at domestic work as an example of how such an approach can be implemented.

Managing Labour Supply and Demand in a Single but Differentiated EU Labour Market

This policy paper concentrates on one of the most important challenges for European migration policy, notably the need to manage effectively economic migration through legal channels with a view to responding to the varied needs of domestic labour markets and at the same time combat effectively irregular migration. The segmented structure of domestic labour markets and the demographic deficit of Europe lead to **increasing demand for a migrant labour force. This migrant labour force demand is concentrated on specific sectors** such as cleaning, catering and caring jobs for women, construction, agricultural work and semi-skilled jobs in manufacturing for men. The demand for low skill migrant labour is experienced more strongly in the 'old' member states of the EU15, Cyprus and Malta, and to a lesser extent in some of the EU8 (e.g. Czech Republic, Hungary and Poland). There is a more contained need for high skill professionals (in the medical and IT sectors in particular) in selected EU member states (e.g. in Germany or the Netherlands). This demand is numerically small and does not affect all member states equally.

In the early 2000s, several EU countries (e.g. Britain, Ireland) adopted, albeit tacitly, pro-migration policies encouraging legal migration for selected categories of low skill and high skill people (from the EU 2004 member states but not only) in response to the needs of their domestic labour markets. Other EU countries (Greece, Italy, Spain, Portugal) tacitly albeit consciously tolerated different forms of irregular migration including short term circular migration, legal entry and informal employment, or illegal entry and work with a view to meeting their labour market needs. At the same time their governments kept upholding publicly a restrictive migration policy even though they eventually resorted to large regularization programmes to manage the situation.

These contradictions in the member state policies and views on economic migration have been reflected in the development of an EU immigration policy. Indeed, the area in which the EU has had **the highest difficulty in legislating** has been the **admission of third country nationals (TCN) for the purposes of paid employment and independent economic activity**. In 2004, the European

Commission has had to abandon the proposal for two Directives on this matter since member states widely disagreed on the content and scope of these directives. The European Commission has sought a way out of the impasse, initially (in 2005) by introducing a policy plan on legal migration and then gradually by introducing Directives that regulate specific types of labour migration. There have thus been Directives on the rather “non-problematic” small-scale high-skill or study/training/research related flows such as the 2004 Directive on the conditions of admission of non-EU nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, the 2005 "Researchers" Directive (fast-tracking stays longer than three months where the researcher has an agreement with a hosting institution), the 2009 Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, the so called Blue Card Directive, and the 2010 Directive for intra-corporate transfer of non-EU skilled workers.

In an effort to regulate also non skilled labour migration flows, the Commission has introduced in 2010, a proposal¹ for a Directive on seasonal employment, currently still under discussion within the European Parliament and the Council. At the same time, Mobility Partnerships² were launched in 2007 with a view of discouraging irregular migration and encouraging legal schemes of temporary or circular migration, particularly from countries in the EU Neighbourhood. Mobility partnerships are not focused on legal migration management but rather on irregular (origin and transit) migration control and other issues but legal migration channels are offered to cooperating third countries as a “carrot”.

The debate on the Blue Card scheme for highly skilled third country nationals is exemplary of the differences³ in the member state labour markets and their different national legislations in matters of work and work-related migration. Initially discussed in 2005, the Blue Card idea was revived in November 2007. It was a hot topic for the larger and economically more powerful and more competitive countries of the EU such as Britain, France, Germany, Italy or Sweden experiencing then labour shortages in professions like doctors, nurses or IT engineers. It was though much less of an issue for the smaller and more peripheral countries like Greece, Portugal or Poland where there was shortage of low skill labour but there were already in the 2000s plenty of native, highly educated professionals that could not be absorbed by national labour markets.

Differences among member state labour markets have been exacerbated by the Eurozone crisis. The southern European countries and Ireland have been witnessing emigration particularly of their highly skilled to other EU or third countries⁴ amidst dramatically rising unemployment in all sectors and among both migrant and native populations. By contrast, recruiting workers, both high skill and low skill ones, remains a concern in Germany or in Sweden as their economies have not been significantly affected by the downturn.

On the other hand, demand for migrant labour in low skill occupations has been regulated in different ways by different member states. The paid domestic work sector is exemplary of the labour market demand and supply dynamics in low skill sectors. Greece, Italy and Spain have met their demand in these sectors through repeated mass regularisations of undocumented migrants, many of whom, particularly women, were employed in caring and cleaning jobs. Italy in particular implemented two large regularisation programmes in 2002 and in 2009 especially targeting people in this sector. Despite rising unemployment in these three countries that have been in the eye of the

¹ For a discussion see Triandafyllidou, A. (2010) *Seasonal Migration and how to Regulate it*, Policy Brief, ELIAMEP Thesis, no. 5/2010.

² For a critical assessment see Triandafyllidou, A. (2009) *Attempting the Impossible? The Prospects and Limits of Mobility Partnerships and Circular Migration*, ELIAMEP Thesis, 1/2009.

³ See Eisele, K. (2013) *Why come here if I can go there? Assessing the ‘Attractiveness’ of the EU’s Blue Card Directive for ‘Highly Qualified’ Immigrants*, CEPS, no. 60/2013.

⁴ Glynn, I. Kelly, T. and MacEinri, P. (2013) *Irish Emigration in an Age of Austerity*, University of Cork; Triandafyllidou, A. and Gropas, R. (2014) ‘Voting with their Feet’: Highly Skilled Emigrants from Southern Europe, *American Behavioral Scientist*, forthcoming in 2014.

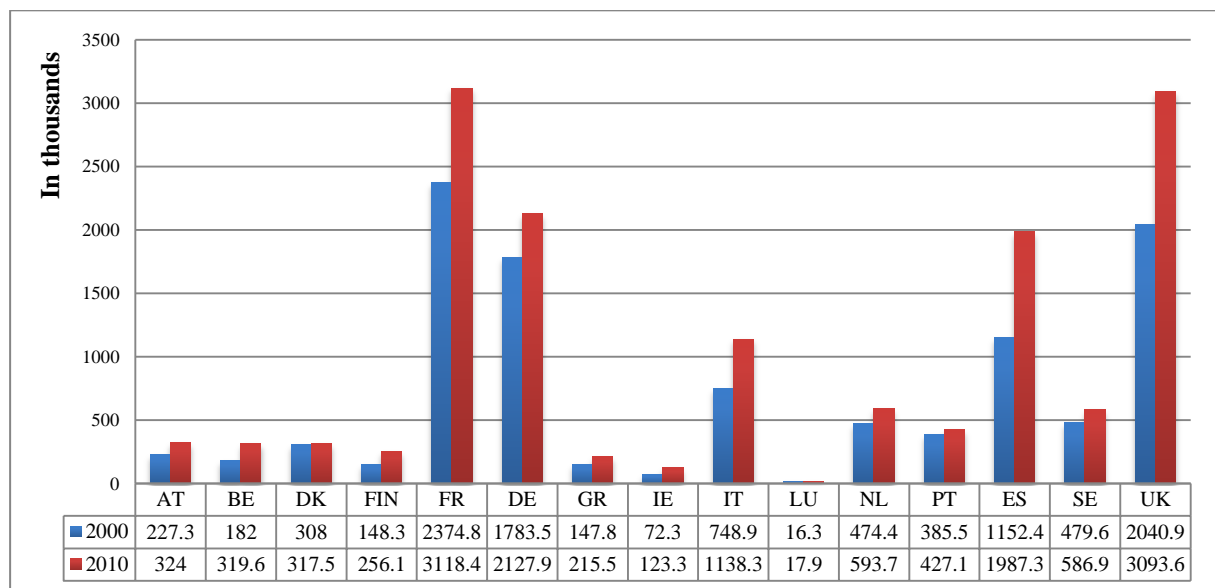
Eurozone storm (with average unemployment at nearly 25% in Greece and Spain in 2013 and 12% and rising in Italy in the same year), native women appear to be reluctant to finding employment in this sector. Even if the demand for cleaning and caring services by middle class families, hit by recession and unemployment, has lowered, the domestic work sector has been less influenced by the crisis, compared for instance to construction industry or agriculture.⁵

The Size and Features of Migrant Domestic Work in the EU

Hiring migrant workers for domestic work is a rapidly increasing phenomenon across EU countries. While traditionally associated with Southern European countries, where there is a lack of public welfare services for personal care, the hiring of migrant domestic workers is today relatively widespread also in Central and Northern Europe, as the data provided below demonstrate (Figure 1).

Figure 1 presents the results of a study undertaken by Manuel Abrantes⁶ on the basis of the EU Labour Force Survey data (EU LFS). **Comparing labour force survey data across the European Union, in 2000 and 2010, Abrantes shows that the sector has indeed expanded significantly during the last decade.** The increase was most prominent in Sweden, Great Britain and Belgium, but also significantly large in Finland, France, Greece, Italy and Spain. In some countries like Greece, Italy or Spain this increase may be related to an “emergence” into the formal economy of a previously informal economy sector (notably of paid domestic work that would take place through cash in hand and with no welfare contributions or registration of the labourer). In other countries, like Sweden for instance, this trend suggests an actual increase of paid labourers in the domestic work sector.

Figure 1: Number of registered service workers⁷ (EU-15 countries)



Source: Eu Labour Force Survey (retrieved early 2011).

⁵ Gonzalez-Enriquez, C. (2013), Spain in A. Triandafyllidou and R. Gropas (eds) *European Immigration: A Sourcebook*, Aldershot: Ashgate, pp. 339-351; Maroukis, T. (2013) Economic crisis and migrants’ employment: a view from Greece in comparative perspective, *Policy Studies*, 34, 2, 221-237; Bonifazi, C. and Marini, C. (2013) The Impact of the Economic Crisis on Foreigners in the Italian Labour Market, *Journal of Ethnic and Migration Studies*, 40, 3, pp. 493-511; Marchetti, S. and Di Bartolomeo, A. (2014) Care work and the feminization of labour migration to Italy through the current economic crisis, MPC/EUI Policy Blog.

⁶ Abrantes, M. (2012), Yes, but what about numbers? A quantitative contribution to the study of domestic services in Europe. *International Labour Review*.

⁷ This refers to the two main categories of the Standard Classification of Occupation which include domestic workers, namely ‘Domestic and related helpers, cleaners and launderers’ and ‘Personal care and related workers’.

The number of households employing a domestic worker is increasing across the European Union as a response to the wide spreading privatisation of the children and elderly care sectors. Since public nurseries, elderly homes and hospitals cannot any longer satisfy their requests, European families shift to purchasing market-based caring and cleaning services. **Hiring a migrant domestic worker meets the demand on an affordable and yet good quality personal care; while it offers a solution to native women who struggle to combine care and work related expectations and who, otherwise, would have to step out of the labour market.**

Despite this expansion, in many EU countries it is still difficult, when at all possible, to legally hire a migrant domestic worker.

A first difficulty comes from the fact that the sector in itself is often poorly regulated (see Table 1). Domestic workers lack an ad hoc legal protection in countries such as Greece, United Kingdom, Denmark, Spain and the Netherlands. Poland does not actually recognise this work as proper work, relegating it to a ‘personal service’. On the other hand, Italy, Austria, Belgium, France, Portugal and Sweden are a positive example of countries where the employment of domestic workers is regulated by a specific collective agreement. Table 1 elaborates on the latest reports from the Bureau of Workers’ Activities of the ILO (ACTRAV)⁸ and the European Union’s Fundamental Rights Agency (FRA)⁹ in order to show the variety of legal arrangements that frame the employment of domestic workers.

Table 1. Legal Framework for the Private Employment of Domestic Workers

Country	Specific legislation for domestic work	Specific collective agreement	Application of collective agreements on agency recruitment	No specific law (application of general labour law)	Domestic work is NOT considered employment
Austria	x	x			
Belgium	x	x			
Denmark				x	
Finland	x				
France	x	x			
Germany		x			
Greece				x	
Hungary	x				
Ireland	x				
Italy	x	x			
Netherlands	x		x		
Poland					x
Portugal	x				
Spain	x		x		
Sweden		x			
UK				x	

Source: Compiled by the authors on the basis of ACTRAV/ILO and FRA, cit.

The second obstacle to the hiring of a migrant domestic worker comes from national policies on labour migration. Table 2 provides an overview of the migration policy frameworks that apply to migrant domestic workers. In countries like Denmark, Finland, the Netherlands and Germany, it is not possible, for households, to hire a foreigner in a legal way. In Belgium, France and Spain, instead, although this is possible in principle, it is actually made unfeasible by a strict application of the

⁸ ACTRAV (2013), *Decent Work for Domestic Workers: The state of labour rights, social protection and trade union initiatives in Europe*, Geneva: ILO.

⁹ FRA (2011), *Migrants in an irregular situation employed in domestic work: Fundamental rights challenges for the European Union and its Member States*. Wien: FRA.

market-test which discourages employers. It goes indeed beyond the family-as-employer capacities to demonstrate whether any native women are willing to take up a given job.

In countries like Italy or Greece, a quota-system fixes the maximum number of people that can apply each year for a residence permit for employment as domestic workers or carers. However, these quotas are usually set on the basis of a regional estimate of demand for workers in this sector that hardly represents the actual demand. Indeed household needs for caring or cleaning tasks cannot be planned by families as employers-to-be in the same way as a private firm would do in the industrial or agricultural sector. Caring needs often arise unexpectedly (somebody falls ill, a child is born). So the whole system of annual quotas of labour demand in the domestic work sector is ill-conceived to respond to the needs of households.

Countries where hiring is possible, might still have very different regulations for what concerns the recruitment system: in Italy, Belgium and United Kingdom the employer needs to formally sponsor the trip and the stay of the worker offering financial support; while in Austria care-workers are self-employed, which releases the households from any responsibility. Finally, it is also important to point to the fact that in several countries where hiring a migrant for domestic work is not allowed, the au pair placement scheme has been increasingly abused by families as an opportunity to find affordable childcare and cleaning help rather than as a cultural-exchange experience for a young person as it is supposed to be.¹⁰

Table 2. Legal framework for the employment of migrant domestic workers (main countries)

Country	Possible to hire non-EU domestic workers	Market-test as barrier to hiring non-EU domestic workers	Quota limitations	Self-employment	Sponsor system	Au-pairs as substitute channel
Austria	yes			X		
Belgium	yes	X		X	X	X
Denmark	no					X
Finland	no					X
France	yes	X				
Germany	no					
Ireland	yes					
Italy	yes		X		X	
Netherlands	no					X
Poland	yes					
Portugal	yes					
Spain	yes	X				
Sweden	yes					X
UK	yes				X	X
Hungary	yes					
Greece	yes		X			

Source: Compiled by the authors on the basis of ACTRAV/ILO and FRA, cit.

Migrant workers entering the European Union to work in the domestic work and private care sector are facing a complex landscape of migration and labour regulations that is extremely difficult to navigate. The situation is problematic also for households who cannot find appropriate nor affordable care among declining welfare states and fellow nationals reluctant to take the job, but are forbidden or discouraged from legally hiring a domestic worker who is a third country national. As a consequence, irregular migration and informal work are expanding inside the realm of private homes. Indeed a rather imperfect way to face the increasing caring and cleaning needs of European households.

¹⁰ See Triandafyllidou, A. and Marchetti, S. (2014) *Employers, Migrants and Agencies*, Aldershot: Ashgate, in press.

In many EU countries legal migrant domestic work coexists with irregular stay/employment having important repercussions in the fundamental rights of migrant domestic workers. A recent study by the Fundamental Rights Agency and a book dedicated to this issue¹¹ have illustrated how the specificities of domestic work (taking place inside the home, often with non-fixed hours and tasks) when intertwined with undocumented migration status and informal work arrangements can lead to particularly exploitative conditions of work and situations of extreme vulnerability.

The situation described and analysed above highlights some of the features of the domestic work sector that make it particularly suitable for being regulated at the EU level:

- It is a sector that is widespread across EU countries (in south, north, east and west of the Union)
- Demand is increasing
- Challenges faced by households as employers are largely common
- Challenges faced by workers are also common
- The private home is a special site of work that escapes traditional labour regulation and labour inspection checks
- Demand in this sector is satisfied by 'global care chains' of supply and demand that are transnational in nature and can be better channelled through a common European regime, offering thus also a level-playing field for European households and migrant workers

A Sectorial Approach: The Case for Migrant Domestic Work

Today more than ever, the **EU needs a comprehensive albeit differentiated approach that takes into account the complexity of labour force offer and demand**, the different economic cycles of individual member states. However, we need also to acknowledge that there is **a structural demand for migrant labour force in certain occupations that is related to factors** such as the long-term demographic processes (the **ageing** of European societies), the configuration of nuclear families without extended support networks to cover needs **for care of children or elderly/disabled** people, the **participation of women in paid work** outside the home, that are **irreversible and that persist even in periods of acute economic downturn**. In addition, as Europe is engaging into a slow recovery path, this is the right time for introducing a management system that would **anticipate new flows**.

We propose in other words to **create a regulatory framework that is proactive but that would also be adaptable to territorial and sectorial difference**, but would usefully provide a management framework for current and future flows in low skill sectors.

Such a **sectorial approach can be successfully tested in the case of the wider domestic sector** embracing both cleaning and caring work. This approach would complement the existing directives on training, research, students, intra-company transferees, high skill migrants and seasonal employment, listed above.

For the domestic work sector, we propose the following main points that could form the basis for a consultation and later possibly an EU Directive that would regulate the domestic work sector:

1. Create a recognised professional category of domestic worker, with a list of tasks and sub categories of jobs that are included in the category. There are several national laws regulating the category (see Table 1) that could provide for very useful input for the drafting of an EU wide operational definition.

¹¹ FRA (2011), cit.; Triandafyllidou, A. (2013) (ed) *Irregular Migrant Domestic Workers in Europe. Who cares?* Aldershot: Ashgate.

2. Respond to the needs of the domestic work sector and the special type of employers involved (families) by adopting special arrangements for welfare contributions and health insurance.
3. Adopt a demand driven approach, of the kind adopted by the current Swedish¹² migration law (voted in 2009) which allows for employers to hire a third country national without a formal market-test that proves that they have looked for a native worker, EU citizen or already resident third country national before hiring somebody from abroad.
4. Introduce a ‘sponsorship system’ by which any migrant who finds a prospective employer willing to sponsor their case (by providing a full salary, shelter, financial support, etc.) can apply for a work permit. Like in Belgium, this can be done in the case of migrants still in their home-country as well as in the case of those who are already at destination (which is not possible in Italy, for instance). However, it is important to set clear limitations to this procedure by excluding, for example, people with family ties in order to avoid that this procedure would cover other forms of migration (family, marriage, etc.). The sponsor-system for the recruitment of foreigner workforce is largely used also outside Europe, like in USA and Australia, and it has proven to be successful insofar it opens an **opportunity to employers and employees to formalise their relationship regarding both labour and migration rules, at the same time.**
5. Also acknowledge and formalise the role of networks in organising employment for newcomers through chain migration of relatives or co-nationals: useful examples of such policies have been the measure applied in Italy between 1998 and 2001 or the possibility to obtain a stay permit as an independent worker with an individual business plan in the UK in the early 2000s. Such policy experiments need to be diffused and tested in different member states – the idea that migrants have to secure a job before arriving at destination has proven to be wishful thinking in many countries leading to large numbers of unauthorised workers not because border controls are ineffective but because the pull factor of labour market demand is too strong.
6. Develop monitoring mechanisms that check whether a person that entered the country to work as a domestic worker under the specific category is indeed under a legal work contract with acceptable working and living conditions after six months, one year, or two years.
7. Promote via trade unions and NGOs **forms of self-organisation of the migrants** (e.g. cooperatives) **that help domestic workers achieve and maintain legal status while working in sectors** such as cleaning, caring or catering that are by nature difficult to regulate and where individual workers perform tasks for a variety of small employers.

An accompanying measure includes studying the link between legal opportunities and reduction of irregular migration in the domestic work sector: would actual or prospective migrants (studies need to address both people who are already at destination and people still in the countries of origin) wait for a legal opportunity to move rather than risk the irregular journey, stay and employment? **How long would they wait? What other incentives can affect the timing of their decision to migrate (e.g. longer permit duration, assistance for housing or allowance for children education)?** Answers to these questions can help design and implement appropriate policies for managing legal immigration and discouraging irregular migration?

¹² See <http://www.government.se/content/1/c6/10/72/00/2a13eb93.pdf>