



Access of non-EU nationals to the Irish labour market

1996-2009

Report

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Introduction

This report is the result of a combination of extensive desk and field research with reference to non-Irish national access to the labour market. The first part of the report present the findings of the desk research, while the second part of report is the outcome of the field research with immigrants, service providers and employers. The research was carried out simultaneously in six countries as part of the READI project. The project concentrated on three main groups of stakeholders: immigrants, service providers in the field of employment and employers.

READI - Recognition, Employment, Appreciation, Diversity Management and Integration for Immigrants - is a European project co-financed under the European Fund for the Integration of Third-Country Nationals implemented in Italy, Germany, Greece, Ireland, Portugal, and the UK. Promoted by the Province of Rome in collaboration with a broad European partnership, READI is an action research project that addresses the difficulties faced by skilled job-seeking immigrants as a result of the lack of recognition of qualifications earned abroad as well as other factors that can impede employment such as discrimination and the lack of information on the part of employers. The project sought to redress these problems at the local level through the use of creative and innovative tools and the collaborative efforts of government agencies, research institutes, employment agencies, vocational training institutes, migrant organizations, employers' associations, and relevant NGO's. Specifically, READI involved the development of three tools aimed at employers, job seekers and employment agencies. These include: a diversity management manual that provides employers with information about diversity management in general as well as issues that specifically relate to the employment of third-country nationals in Europe; a Guide to Self-Presentation in the Labour Market that offers immigrant employment seekers with information and advice about seeking employment in the country; and a Guide to the Creation of the Portfolio of Achievement, which provides job seekers and employment agencies with an alternative means for assessing and presenting immigrant jobseekers' skills and qualifications. The tools can be downloaded from www.integrationcentres.ie.

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Part 1: Desk Research

Executive Summary

Introduction

This report looks at how non-EEA nationals have accessed the Irish labour market since 1996. It attempts to give a thorough description with regard to their entitlements in the context of the labour market and introduce the relevant labour market and social policy framework, legislation and case law. It highlights what have been the main challenges for non-EU nationals in regard to accessing the labour market in general and accessing employment that reflect their skills, and for employers who have considered non-EU national applicants. Subsequently, the report gives a detailed introduction to the current institutional arrangements with regard to recognition of foreign qualifications in Ireland and admission policies before professional bodies. Lastly, it attempts to show how workplaces have responded in the recent years to the growing diversity in their workforce that includes many non-EU nationals.

Overview of relevant policy framework and law

It is a well known fact that Ireland has rapidly changed from a country of emigration to a country of immigration since 1996. The growth in immigration to Ireland was, to a large extent, generated by Ireland's economic boom. At the beginning of this period many of the new arrivals were returning Irish nationals. Gradually, however, non-Irish nationals became the major source of employment growth and approximately half of the newly created positions (around 250,000 vacancies) were filled by immigrant labour in the period of 1999-2007. While in 1996 only 1% of the population was foreign born, in 2006 every tenth person was born outside Ireland. According to latest data Non-EU nationals now represent approximately one third of the migrant population (144,000) in general and one quarter of the foreign-born workforce (80,000).¹

Ireland's labour market policy has been vacancy led since 1996. EU/EEA nationals have unrestricted rights to access the labour market and this freedom was extended to workers from the new accession states in 2004. Labour market shortages were filled in this period largely by non-EU workers via a '*laissez-faire*' type work permit system until 2004 when the influx of new EU workers resulted in their taking up many of the low-skilled positions while simultaneously restricting non-EEA nationals' access to lower-skilled positions. However, the renewal of work permits dropped only slowly until last year retaining the presence of non-EU nationals even in lower skilled occupations. As a result of dramatic falls in the number of vacancies it is currently extremely difficult to obtain or even renew a work permit. This is something which will be even more exceptional in the future according to new rules commencing in June 2009.²

Ireland attempted to attract skilled workers since 2000 first through the working visa/authorisation system and then since 2007 via the more centralised Green Card machinery. It targeted workers in positions where the labour market reports and surveys illustrated that there were persistent skill shortages. Ireland has recruited a number of health, IT, construction, financial and business professionals, engineers and scientists since 2000. Due to the rapid deterioration of its economic

¹ *National Skills Bulletin 2008* by Study and Labour Market Research Unit in FÁS, Dublin: Expert Group of Future Skills Needs, 2008.

² 'Tánaiste Announces Revised Employment Permit Arrangements for Foreign Nationals Seeking Employment in Ireland', 2009. Speech is available at www.entemp.ie.

performance and the subsequent lessening demand in 2008 construction related professions were removed from the scheme, and as a result of most recent arrangements several financial, business and medical professions are no longer eligible for a green card. Ireland also decided to authorise spouses/dependants of permit holders to work after many nurses indicated in 2004 that they might leave Ireland for another country if their family members could not work.³

Non-EEA nationals who secured student visas have also been allowed to take up employment without the need to search for EU nationals first. It was demonstrated that this channel provided a significant supply of labour to the Irish labour market but these were mainly low-skilled positions in the services sectors. This group proved to be a very flexible and committed workforce for the employer but they also reported to have been subject to unfair treatment or exploitation in some cases.⁴

In the same period Ireland was caught unprepared by the increase of asylum applications and the specific needs of those who were granted refugee status. The number of asylum application consistently rose from 1996 to 2002 and Ireland developed its legislative machinery as late as in 2000.⁵ Gradually Ireland is putting in place the policy and institutional framework to deal with asylum applications but it has yet to commence specific support services for refugees to facilitate their integration into Irish society. Many previous asylum seekers were authorised to stay in Ireland on the basis of being a parent of a child with Irish citizenship on the foot of a once-off scheme introduced in 2005 (known as the IBC scheme). This scheme followed the enactment of the Irish Nationality and Citizenship Act 2004, based on the outcome of the Citizenship Referendum the same year, which prevented people from gaining automatic citizenship by birth in Ireland. Non-EEA nationals with residency entitlements have often been regarded by policy makers as non-economic migrants without skills and the absence of this group of people in labour market policy reinforces this perception.

The Government redrafted the Immigration and Residency Bill in 2008, which is deemed to be a comprehensive regulation of migration and protection issues. Despite containing positive elements such as the single protection regime it is regarded by many stakeholders as a flawed and incomplete framework that needs to be modified in order to fulfil its original goal of overhauling the immigration system.⁶ The Employment Equality Act 1998 specifically deals with instances of discrimination at the workplace and explicitly bans discrimination in relation to access to employment save for domestic workers.⁷ Importantly, unlike the original Directive, the Act prohibits discrimination on the ground of nationality. However, this is without prejudice to pertaining employment permit legislation.

It is apparent that Ireland did not plan for the long-term consequences of migration. This is reflected in temporary characteristics of its labour market policy. By the same token, migrants were touched upon only marginally in broader social policies. The National Action Plan Against Racism (NPAR 2005) could not fulfil its objectives without adequate funding although it did help to clarify the content of integration somewhat by setting out objectives such as economic inclusion and equal opportunity.

³ FÁS, *Labour Market Reviews 2002-2008*. Available at www.fas.ie,

⁴ Migrant Rights Centre Ireland, Lowe, H., *Realising Integration – Creating the Conditions for Economic, Social, Political and Cultural Inclusion of Migrant Workers and Their Families in Ireland*, Dublin: Migrant Rights Centre Ireland, 2006.

⁵ Office of the Refugee Application Commissioner, *Statistics of Refugee Determinations and Family Reunifications Applications 2001-2009*. Available at www.orac.ie

⁶ Irish Business and Employers Confederation, *Immigration and Residency in Ireland, Submission to the Department of Foreign Affairs*, Dublin: IBEC, 2005. Integrating Ireland et al, “Immigration, Residency and Protection Bill”, Multiply Agency, 2008. Available at www.integratingireland.ie.

⁷ The lack of protection of domestic workers against discrimination while searching for employment was denounced by the NCCRI and other commentators. National Consultative Committee on Racism and Interculturalism, *Submission to the European Commission against Racism and Intolerance*, 2006. Available at www.nccri.ie.

However, the concept itself has not been elaborated in the Irish policy context. It has appeared in policy statements and reports but strategy has not been formed fully with regard to integration.

Accessing the labour market

The absence of detailed integration strategies can be underlined by the position of non-EEA nationals with residency entitlements. They are offered the same rights as Irish nationals in terms of right to work and education which includes training, however, specific employment support services have not been developed towards this group of people apart from a few local programmes. While FÁS, the national employment agency and the Local Employment Services attempted to adjust their services to assist their new client group it was pointed out that specific services and training would go a long way to towards providing an improved service for refugees and people with leave to remain.⁸ Work permit holders cannot avail of the state employment service so they have to rely on their own contacts when seeking employment. Although due to recent arrangements permit holders who were made redundant are permitted to use certain services of FÁS – but this policy has not been communicated proactively.

Various reports have identified challenges that non-EEA nationals face when searching for employment. A major barrier is English language which was deemed to be a crucial policy lever in order to succeed in the labour market.⁹ However, the English language provision in Ireland was described as non accessible and not affordable for many. It was also observed that English-speaking non-EEA citizens could perform better in the labour market for the reason that employers are more likely to be familiar with the education system of their country of origin. Furthermore, several reports illustrated that certain ethnic groups are more likely to be discriminated against. In particular people with Black ethnicity appear to have serious difficulty when trying to access the labour market.¹⁰ Exploring the specific experience of Nigerians or that of a wider group of Africans in the Irish labour market, a similar conclusion can be arrived at.¹¹

Both employment permit holders and people with residency entitlements reported difficulties when attempting to change occupations. It can be tentatively concluded that apart from the lack of Irish work experience, this may be ascribed to employers being more familiar with skills and characteristics of certain nationalities in specific occupations and ultimately in specific sectors. To take an example, statistics and research portrayed the dominant presence of South Asians in the health sector working as nurses, medical practitioners and specialists and in the hospitality sector as chefs and restaurant managers but their simultaneously low representation in the financial sector or construction. In general non-EEA nationals are concentrated in the services sectors and the health industry. This latter industry received more non-EEA nationals than EEA citizens between 1996 and 2008.¹²

Recognition of qualification and skills

Various research and statistics have portrayed immigrants having a higher education level than the native population, yet stressed that many non-EEA nationals with third-level degrees are employed in low-skilled occupations.¹³ It was argued that many immigrants may want to get a foothold in the labour

⁸ Nasc, the Irish Immigrant Support Centre, *Integrating the Future – Nasc’s Strategy on Access to Employment, Education and Enterprise for Migrants in Cork*. Nasc: Cork, 2008.

⁹ O’Connell, P. and McGinnity, F., *Immigrants at Work – Ethnicity and Nationality at the Labour Market*, Dublin: Equality Authority & Economic and Social Research Institute, 2008.

¹⁰ Ibid.

¹¹ Dunbar, P., Conolly, F., Egan, M.A., Moynihan, K., *Evaluating the Barriers to Employment and Education for Migrants in Cork*, Cork: Nasc, 2008.

¹² Nationals Skills Bulletin, 2008.

¹³ Ibid.

market or pursue short-term goals but it was pointed out that research did not evidence progression over a period of time apart from the earliest group of immigrants (1995-1999) from the UK and old EU states.¹⁴ The negligible number of middle-skilled positions in Ireland may also contribute to the limited progression of skilled migrants in the Irish labour market. Some observed that the lack of recognition of qualification is a major factor which can be attributed to an inability or lack of information on the part of employers to evaluate non-Irish qualifications and experience, their unwillingness to acknowledging foreign credentials and absence of effective accreditation procedure to validate overseas qualifications including the process of registering with professional bodies.

The National Qualification Authority of Ireland (NQAI) commenced its Qualification Recognition service in 2003 and it has dealt with a growing number of applications every year. Upon request it can issue a statement which determines to which level of the National Framework of Qualification the foreign qualification compares to. NQAI provides a more detailed statement than previously, and now with an explanation of the National Framework of Qualification. The Authority has established a database of qualifications and also the review of educational systems of several countries that frequently feature among applications. As such the NQAI has made a great contribution to promoting foreign qualifications in Ireland and in helping non-EEA nationals to secure employment where they can capitalise on those qualifications. Despite their valuable service a number of non-Irish nationals were still unable to find work even when disclosing this statement. This can be ascribed to the lack of awareness or apparent understanding of the National Framework of Qualification by employers and also the lack of work experience in Ireland.

Research carried out in Ireland concluded that Irish work experience can be a crucial aspect of someone's potential selection for a post.¹⁵ It was proposed that training courses with work experience could help immigrants to bridge this gap; however, there is immense competition for places and it is a waste of resources if the actual training does not provide new skills for the person. It was suggested that up-skilling, conversion courses and mentorship with a possible work experience attached may well provide the necessary link between skills of non-EU (or non-Irish) nationals and the labour market.¹⁶

Since 2008 there have been significant changes with regard to admission policies of professional bodies which control the entry to specific professions in Ireland as a result of the adoption of the EU 2005/36 Directive which consolidated previous directives on the mutual recognition of qualifications in various professions. All the professions covered by the Directive consider non-EU applicants however these continue to be treated less favourably than EU applicants. Firstly, the majority of professionals who can avail of the option of automatic recognition of their professional qualifications are citizens of the UK, former English colonies or EU/EEA nationals. Another important obstacle is that exams are very expensive and this can create financial hardship for applicants in the absence of a support structure and can be compounded by the lack of income during preparation for the exams. Furthermore, all the regulated professions appear to treat refugees in the same manner as other non-EU applications, with the notable exception of Medical Council without paying special consideration to their circumstances such as inadequate documentation on their qualification.

The Department of Health examines the applications of EU/EEA nationals and non-EEA nationals in the same manner. The body took note of the Labour Court decision in *V. Ilieva and T. Mitov v Irish Society of Chartered Physiotherapists*. The Court ruled that complainants who were legally resident

¹⁴ Barrett, A. and Duffy, D., 'Are Ireland's Immigrants Integrating into its Labour Market?'. Working Paper No.199. Dublin: The Economic and Social Research Institute, 2007.

¹⁵ Refugee Information Service, *Report on the Employment Roundtable Hosted by the Refugee Information Service*, Harbour Hotel Galway, 2008. Available at www.ris.ie.

¹⁶ Ibid.

non-EEA citizens should have been afforded the facility to take compensatory measures when their qualification was shown to fall short of the required standards if EU nationals were provided with the same option. Accordingly, the Department authorises both EEA nationals and legally resident non-EEA migrants to take compensatory measures if their qualification is deemed to show deficit against the minimum training requirements. Those non-EEA nationals who are not legally resident cannot avail of this facility.

Most non-EEA professionals under the Sectoral System have to sit a test or exam for instance medical practitioners, specialists, pharmacists and veterinary surgeons. Prior to 2008 pharmacists and veterinary surgeons from outside the EEA were excluded from entering their profession in Ireland and medical practitioners could only acquire temporary registration at first instance. While admission for non-EEA nationals can be a long, complex procedure they are now provided with the opportunity to enter their profession. By the same token, nurses or pharmacists trained outside the EEA who fell short of educational requirement can undertake an adaptation period. Architects are however provided with various options which include the possibility of evidencing seven years of profession practice without having to submit the proof of qualification.

The recognition of prior learning is a recognised concept that consists of formal, informal and experimental learning. It is not widely used in practice due to the lack of dedicated resources as well as lack of awareness. Importantly, Engineering Ireland offers the opportunity to foreign traded applicants who are not covered under agreement to evidence their competence through producing a report. Two higher education institutions have also adopted this method and assist with building a portfolio for applicants who wish to gain exemptions in a course or advanced entry to a programme.

Diversity management

The benefits to be gained from a new pool of labour have often been stressed and it has gradually been acknowledged that managing diverse workforce is crucial to maximising those benefits while tackling underlying challenges. One of the five objectives of the National Action Plan Against Racism 2005-2008 was to recognise diversity and formulate awareness-raising strategies.¹⁷ Research found that many of the big and medium-sizes companies surveyed in the manufacturing, service and financial sectors reported having formal written policies on equal opportunities but markedly fewer firms adopted a written diversity policy or appointed a designated manager to champion equality and diversity in the organisation¹⁸. Small companies however were less likely to devise equal opportunities policy; but they did seem to be more proactive at the stage of recruitment by hiring non-Irish nationals.

A study examining nurse recruitment and their workplace concluded that communication between foreign trained professionals and Irish nationals has to be facilitated and practical support is needed. The Equality Tribunal and the Labour Court have also stressed the need for facilitating non-Irish national workers' understanding of the regulations and practices in the workplace that places the duty of positive action on employers.¹⁹ It explicitly mentioned the need for proper induction courses and resources to be made available to spell out actions targeted at foreign-born employees. To sum up these findings, positive practical steps are regarded as essential to handle and embrace diversity.

¹⁷ *National Action Plan Against Racism 2005-2008*, Dublin: Department of Justice, 2005.

¹⁸ Mc Adam, M., O'Brien, F and Ryan, F of TCD, 'The Experiences of National and Non-national nurses in the Health Care System', *Equality News Winter*, 2004. Available at www.equality.ie.

¹⁹ The Labour Court, Determination, ED/01/27; The Equality Tribunal, DEC-E2006-050.

Conclusion

Ireland has greatly benefited from the presence of non-EU nationals in the workforce. While some of them are appreciated for their competencies and technical skills, others are valued for their flexibility, endurance and commitment. It should be emphasised that some of them could not access the labour market at all or at least not at their skill level. The fact that these people hold qualifications does not seem to guarantee they can bring those technical skills to the labour market. There are several barriers faced by non-EU nationals such as language, discrimination, lack of work experience, and the fact that skills of certain nationalities seem to be preferred or valued by employers more than others. These barriers are further reinforced by recruitment drives of big organisations such as HSE and admission policies of several professional bodies. Furthermore, the current economic climate has limited opportunities in skilled employment.

This report has shown that many promising initiatives have been put in place in recent years. However they were isolated actions and were rarely accompanied with a comprehensive consultation on a higher level. Many commentators have pointed out the need for a wider consultation with various stakeholders that would help address these issues by developing a comprehensive strategy to ensure that people do not waste their skills while in the Irish labour market. Furthermore it was pointed out that specific forums could be set up that would facilitate improved communication between the various stakeholders so that they can collaborate more closely and effectively in the field of regulatory and qualification recognition.²⁰ Various integration forums have even been proposed by the last Minister for Integration, however they have not yet been established. So far only several local forums have been set up in the area of employment and education.²¹ A nationwide dialogue with all stakeholders in these and other key areas can be seen as a gateway to a more inclusive labour market. Ultimately, a fresh approach is vital to acknowledge the permanent presence of non-EEA migrants in Ireland who have lived here for several years, and to form subsequent policies that facilitate and do not undermine their long-term commitment to this country.

²⁰ Ní Mhurchú, A., *Recognition of Professional Qualifications: An Analysis of the Role of Professional Bodies*. Dublin: Integrating Ireland, 2007.

²¹ Nasc, *Integrating the Future*, 2008. Trotman, A. for the Refugee Information Service, *Evaluation of the Family Reunification and Integration Pilot Project*, Dublin: Refugee Information Service, 2008.

Chapter 1: Overview of Relevant Policy Framework and Law

1.1 Economic Migration

It is a well-documented and frequently quoted fact that Ireland has rapidly changed from a country of emigration to a one of immigration. The growth in immigration to Ireland was, to a large extent, generated by Ireland's economic boom and the subsequent policy framework that facilitated immigration.²² When the economic boom started in 1996 and the coin phrase of 'Celtic Tiger' first was brought to public domain only 1% of the population was foreign-born. By 2002 non-Irish nationals accounted for 5.8% of the population in 2002 and 10.1 % in 2006.²³ Non-EU nationals represented approximately one-third of the foreign-born population in both of these years with increasing substantially their number from 89,000 to 144,000 in the four year period in spite of many non-EU nationals becoming EU nationals due to the accession of ten countries in 2004.²⁴

As the economy expanded from the middle of the 1990's onwards a strong need presented itself to attract workers from abroad since the growing number of vacancies could not be met by domestic labour. The Government therefore authorised employers and agencies to search for workers outside Ireland and many people responded to the invitations. At the beginning of the economic growth in the mid 90's, many of these arrivals were returning Irish emigrants. Gradually, however, non-Irish nationals became the major source of employment growth illustrated by the fact that approximately half of the newly created positions (around 250,000 vacancies) were filled by immigrant labour in the period of 1999-2007.²⁵

Until April 2003, Ireland's labour migration policies were almost entirely employer-led without any restriction and legislative footing and the period between 1999 and 2003 witnessed an eightfold increase in the number of work permits allocated per year from 6,262 to 47,551.²⁶ In 2000 the work visa/authorisation scheme was introduced to provide a fast track route for highly-skilled non-EU citizens at strategic occupations suffering from skill shortages.²⁷ The new regime administered by foreign embassies led to the allocation of a few thousand visas annually with the majority of going to nurses. The Employment Permit Act 2004 brought the 'laissez-faire' work permit regime to an end prescribing the implementation of a labour market test with every work permit application to ensure that EEA nationals could not be found to fill the post. It is also stated that non-EU nationals may not account for more than 50 % of the workforce. In 2004 the Government granted unrestricted access to the new Accession state nationals who became free to move to Ireland and secure employment without the need to rely on Irish employers to obtain work permit for them. However, non-EEA nationals are still required to find an employer who would present them with a valid job offer and despite later changes to the permit system in 2006 the labour market policy towards third country nationals has thus remained vacancy-led except for the list of ineligible occupations which itself is based on analysis of

²² International Organisation for Migration for the National Economic and Social Council of Ireland, *Managing Migration in Ireland*, Dublin: National Economic and Social Development Office, 2006.

²³ Central Statistics Office, *Census 2006, Principal Demographic Results*. Available at www.cso.ie

²⁴ Ibid.

²⁵ *National Skill Bulletin*, 2008.

²⁶ Department of Trade, Employment and Enterprise, *Employment Permit Statistics 2002-2009*. Available at www.entemp.ie.

²⁷ The two names refer to the difference in respect of visa requirement. Nationals of specified countries are required to hold visa to be allowed to land in Ireland.

the skill profile of registered jobseekers. The introduction of a quota or point system existing in other jurisdictions was rejected as inefficient and overly rigid mechanism.²⁸

Notably there have been two national schemes to attract third-country nationals to take up the positions of nurses and midwives carried out by the Health Service Executive and Dublin Academic Training Hospitals. They both involved need analysis, a tendering process and the actual recruitment carried out by agencies.²⁹ While a marked number of non-EEA citizens were recruited through these mechanisms they represent rather exceptional initiatives.

In 2004 the Government envisaged meeting the needs of the expanding labour market, especially labour shortages, from the pool of new EU workers. It was intended that non-EEA workers would fill skilled shortages, positions where there is not an adequate number of skilled workers available within the EU. This policy was justified to a large extent in the years following the accession through the huge influx of new EU Member States citizens. The year of the accession saw in turn a marked drop in the number of new work permits issued (from approx. 20,000 to 10,000 per year) but left the number of renewals unchanged which fell then gradually in the following years (from 23,000 in 2004 to 13,000 in 2007).³⁰ The Employment Permit Act 2006 subsequently restricted the number of eligible occupations for work permit which was intended primarily to deal with temporary vacancies and introduced a Green Card scheme which was designated to attract highly skilled workers with a prospect of permanency.

FÁS is the national training and employment agency that provides employment support services, trainings, manages the apprenticeship system, maintains a substantial list of vacancies and carries out research of the labour market. The Expert Group of Future Skill Needs advises the Government on current and future skill needs of the economy by drawing on the analysis of the Skills and Labour Market Research Unit within FÁS. The analysis is based on the survey carried out by FÁS among employers, vacancy listing at national newspapers and FÁS. This information is used by the Department of Trade, Employment and Enterprise to draw up the green card list of professions and the list of ineligible occupations for work permits and in general to devise a economic migration policy.

Arguably the Green Card scheme can be seen as a modified 'statutory version' of the previous administrative regime of work visa/authorization and does not represent a complete departure from the previous machinery apart from the fact that the Green Card scheme is centrally administered by the Department of Trade. Many of the targeted strategic occupations (IT, health occupations and construction related professions until 2008) remained the same although several new occupations were listed such as business and financial professionals, engineers and scientists. The condition of valid job offer remained a central element of the regime which was argued for by Expert Group of Future Skills Needs but criticised by commentators who advocated for a more centralised approach, particularly in the case of skilled occupations.³¹ The most contested point of the new scheme is that it does not provide for automatic residency. The Government also went against the proposal of the Expert Future Skills Needs Group and commentators who called for a combined residency and employment permit³².

²⁸ Mr. Micheál Martin T.D., Minister for Enterprise, Trade and Employment, 'Second Stage Speech on the Employment Permits Bill 2005', 2005. Available at www.entemp.ie.

²⁹ Quinn, E. and O'Connell, P.J., *Conditions of Entry and Residence of Third Country Highly-Skilled Workers in Ireland 2006*, Dublin: The Economic and Social Research Institute & European Migration Network, 2007.

³⁰ Department of Trade, Employment and Enterprise, *Employment Permit Statistics 2002-2009*.

³¹ Ruhs, M., *Managing the Immigration and Employment of non-EU Nationals in Ireland*, Paper No. 19, Dublin: The Policy Institute, TCD, 2005.

³² Forfás Secretariat, "Skills in Ireland" *National Skills Conference*, Farmleigh, 26th October 2006, Reflections Paper, Dublin: Expert Group of Future Skills Needs, 2006.

The Act also introduced the Spousal/Dependent Work Permit that allows spouses/dependants of all employment permit holders to apply for a work permit in a fast-track mechanism. This measure was aimed at retaining a valuable workforce of permit holders who voiced their concern that their family members were not allowed to work previously which could make them leave Ireland for countries with better conditions (the scheme was originally introduced to the spouses of nurses and midwives in 2004).³³ The new measure marked the end of the precarious positions of spouses and dependants of permit holders who were excluded from the labour market and completely dependent on the permit holder.³⁴

1.2 Non-Economic Migration

In parallel with economic migration Ireland had to deal with a growing number of applicants for asylum. The year 2002 saw the highest number, 11,634 applications registering a twenty fold increase since 1995 when 425 applications were filed.³⁵ Ireland incorporated the UN Convention on Refugees into Irish law by the Refugee Act 1996 that for the first time enacted primary legislation on asylum (and immigration) since 1935 by way of setting out the definition of refugee, putting procedure in place to deal with people seeking asylum in Ireland and listing the entitlements attached to the status which includes the right to work.³⁶ In fact the Act had to be amended in order to reflect the jump in the number of applications and it was not enacted until 2000.³⁷ This year saw the commencement of the Office of the Refugee Application Commissioner, the first instance decision-making body with refugee and family reunification claims, and the establishment of the quasi-judicial independent appeal body, the Refugee Application Tribunal. This was followed by three other pieces of legislation regulating the removal of foreign nationals from the state, the offence of trafficking and introducing carrier sanctions. These developments received mixed reaction among commentators who welcomed the construction of a statutory framework in the area of protection and migration but criticised elements of the procedure.³⁸

People who do not qualify for refugee status may be granted leave to remain by the Minister of Justice when for compelling reasons they cannot be returned to their country of origin.³⁹ Only a negligible number of people would have received this form of permission to remain in Ireland if it were not for a group of parents of Irish citizen children. Approximately 17,000 people were authorised to stay in Ireland on the basis of being a parent of a child with Irish citizenship on the foot of a once-off scheme in 2005 (known as the IBC scheme). This scheme followed the enactment of the Irish Nationality and Citizenship Act 2004 based on the outcome of the Citizenship Referenda the same year that deprived certain people from gaining automatic citizenship by birth in Ireland on the basis of whether or not their parents were ‘non-nationals’ or not.⁴⁰ Since 2006 claims for subsidiary protection have also been

³³ “Tánaiste introduces new arrangements for spouses of skilled non-EEA nationals”, 2004, speech is available at www.entemp.ie.

³⁴ Migrant Rights Centre Ireland, *Realising Integration*, 2006.

³⁵ *Statistics of Refugee Determinations and Family Reunifications Applications 2001-2009*.

³⁶ “In this Act refugee means a person who, owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his or her former habitual residence, is unable or, owing to such fear, is unwilling to return to it.” *Section 2 of the Refugee Act 1996*

³⁷ Until 2000 administrative arrangements served as asylum procedures based on first the ‘Von Armin’ letter to the UNCHR in London and from 1997 the ‘Hope Hanlan’ letter which document was explicitly stated to be an interim measure.

³⁸ See C.Kenny, 2003, *Asylum in Ireland: the Appeal Stage*. A Report on the Fairness and Sustainability of Refugee determination at Appeal Stage. Available at www.ris.ie

³⁹ Until 1999 it was explicitly mentioned that they are granted leave to remain on humanitarian grounds.

⁴⁰ See <http://www.refcom.ie/en/Pastreferendums/Irishcitizenship/> and http://www.immigrantcouncil.ie/pdf/1208/parents_of_irish_born_child_dec08.pdf.

allowed.⁴¹ The volume of applications for protection fell back since 2002 below 5,000 per year which may be linked to the introduction of fast track procession of claims from certain countries [deemed to be safe country of origin and other prioritised countries such as Nigeria]⁴² and the removal of social welfare benefits such as child benefit or rent supplement but also the aforementioned changes in the citizenship rules. To be precise, a drop in the number of applications can be observed in most industrialised countries in this period.⁴³ Until the end of 2007, over 9,000 people have received refugee status in Ireland.⁴⁴

Ireland has consciously attempted to target what they called international students, a term which has been used interchangeably with non-EEA applicants, although this approach seems to disregard the group of people with residency entitlements such as refugees who do not fit into this category. International students have been seen as a potential source of revenue for many institutions (both higher education providers and English language schools) and indeed for the government due to the high fees they pay to enrol for courses. The student visa system, which is administered by the Department of Justice, was as equally liberal as the permit system and at the beginning various types of institutions were eligible to receive students from outside the EU/EEA. The Government authorised student visa holders to work without the need to search for EU nationals first. The hospitality and retail sector benefited hugely from the presence of student visa holders. It was argued by MacÉinrí and other commentators that student visa served as a front to sell visas to gain employment in Ireland.⁴⁵ This strong anecdotal evidence may have contributed to restricting the conditions of the student visa in 2005 which limited the scope of eligible courses. The substantial number of non-EEA students present in Ireland even with restrictions effected, however, demonstrates that “this channel of immigration may provide a significant number of workers –working legally or illegally – for the Irish labour market”.⁴⁶ Following the commitments made in the Social Partnership Agreement, the Government commenced an arrangement for bringing students under the permit system whereby they will be required to hold an employment permit to take up employment in the near future. Current figures show that 35,000 non-Irish students have attended courses in Ireland in 2007 with 13,000 of them arriving from non-EU countries and 20% of this latter group in part-time employment.⁴⁷

It also seems apparent that non-economic migrants are distinguished from economic migrants with an underlying assumption manifesting itself that they do not carry skills that can be utilised in the labour market. There is no explicit focus on them when labour market policy is formulated. This approach may have been the reason why prior to 2007 students had to leave the country after concluding their studies and apply for an employment permit from outside the country (apart from a minority who secured work visa/work authorisation). Recognising the investment made into this human capital the Government adopted a Third Level Graduation Scheme which allows non-EEA graduates at approved educational institutions to stay in Ireland for six month in order to secure employment and gain either a

⁴¹ *European Communities Regulation 2006 (Eligibility for Protection) Regulation 2006 (S.I. No. 518 of 2006)* gave effect the European Qualification Directive.

⁴² *Immigration Act 2003*

⁴³ Quinn, Emma, *The Organisation of Asylum and Migration Policies in Ireland*, Dublin: European Migration Network and Economic and Social Research Institute, 2009.

⁴⁴ United Nations High Commissioner for Refugees, *Statistical Online Population Database*. Available at www.unhcr.org/statistics.

⁴⁵ MacÉinrí, P. and Walley, P., *Labour Migration to Ireland*, Dublin: Immigrant Council of Ireland, 2003.

⁴⁶ International Organisation for Migration for the National Economic and Social Council of Ireland, *Managing Migration in Ireland*, Dublin: National Economic and Social Development Office, 2006. p.113.

⁴⁷ *National Skills Bulletin 2008*.

work permit or green card as a result there of.⁴⁸ This measure was widely welcomed by employers and commentators who proposed the introduction of this measure previously.⁴⁹

1.3 The Immigration, Residence and Protection Bill, 2008

Responding to criticism relating to the lack of coherent policy framework the Government following a two-year consultation drafted the Immigration, Residence and Protection Bill in 2007 and redrafted it a year later in 2008. The Bill is deemed to be a comprehensive regulation of migration and protection issues. Despite containing progressive elements, such as a single protection regime and statutory regulation of immigration matters that were previously on an administrative footing, it is regarded by many stakeholders as flawed and an incomplete framework that needs to be modified in order to fulfil its original goal of overhauling the immigration system.⁵⁰ Of major concern is the restriction on people's right to marry since under the Bill some migrants will not be allowed to marry unless the Minister for Justice gives his/her permission.⁵¹ While introducing long-term residency on a statutory footing, this will be subject to the discretion of the Minister for Justice. It attracted criticism by various migrant and human rights organisations that rights and obligations of migrants such as the right to family reunification are not spelled out clearly in the document but, instead, they will be introduced through regulations.⁵² In general, the Bill places enhanced emphasis on national security.⁵³ At the time of writing, it was being debated in the Irish Parliament (Oireachtas).

1.4 Recent Developments in the Labour Market

Commentators reported a significant fall in the output of domestic economy in late 2007 as a result of the collapse of house building market which was compounded later with worsening credit conditions and the global credit crisis. These developments led first to the deterioration of the construction sector but later it had an impact on the service industry as well. These sectors were the mainstays of the employment growth since 2001.⁵⁴ In 2008 the overall contraction of the economy subsequently stalled the employment growth and a rapid reverse trend was observed. Ireland thus has seen a huge increase in the number of unemployed at a speed that mirrors the pace of previous employment growth between 1996 and 2007. The influx of new EU nationals dropped substantially along with significant fall in the number of work permit renewed (only 5,000 in 2008) and many new EU citizens have since left the country. Furthermore the dramatic fall in the number of green cards/work permits allocated this year indicates a further downward trend.⁵⁵

In 2008 while construction saw a major setback resulting in the removal of construction related professions from the Green Card list, many other industries still reported skill shortages.⁵⁶ As a result of further deterioration of the labour market however, in 2009 financial professions and several of the health professions such as midwives, psychologists, speech and language therapists and social workers have been removed from the Green Card list except for professionals with the annual salary exceeding

⁴⁸ In fact they have to hold at least primary degree. See www.entemp.ie.

⁴⁹ Forfás Secretariat, "Skills in Ireland", 2006; International Organisation for Migration, *Managing Migration in Ireland*, 2006.

⁵⁰ Irish Business and Employers Confederation, *Immigration and Residency in Ireland*, 2005. Integrating Ireland, *Immigration, Residence and Protection Bill*, 2008.

⁵¹ Section 123 of the *Immigration, Residence and Protection Bill 2008*.

⁵² Section 130 (4) of the *Immigration, Residence and Protection Bill 2008*. Integrating Ireland, *Immigration, Residence and Protection Bill*, 2008.

⁵³ "The presence in the State of a foreign national is lawful if, and only if, it is in accordance with permission given or deemed to be given to him or her, in accordance with this Act, to be present in the State." Section 4 of the *Immigration, Residence and Protection Bill 2008*.

⁵⁴ FÁS, *Labour Market Review 2007*. Available at www.fas.ie.

⁵⁵ Department of Trade, Employment and Enterprise, *Employment Permit Statistics 2002-2009*.

⁵⁶ FÁS, *Labour Market Review, 2008*. Available at www.fas.ie. *National Skills Bulletin 2008*.

€60,000.⁵⁷ At the time of writing only a few professions that are still difficult to be sourced from within the EU, remained on the list of critical skill shortages: nurses, medical practitioners, IT professionals, engineers, scientists and chefs.

Permit holders who lost their job are subject to enormous challenges since their residency depends on finding employment. The excessive delays in regard to long term residency applications and the restrictions on applications for renewals coming to effect in June add to their hardship. While the current economic climate may justify a strict approach, it was argued that it is both inhuman and unwise to create conditions for migrant workers already resident in Ireland that may lead to their departure.⁵⁸ The regime will need to be reviewed especially if the downward trend of migration from new EU states, observed as early as 2007 before the recession prevailed, is to continue when the domestic economy recovers.⁵⁹ Ireland suffers from a growing dependency ratio similar to other European countries, which was stressed by the Central Statistics Office projecting that by 2035 the elderly will outnumber young people in the indigenous population.⁶⁰ Of course, the projection in 2005 by the Enterprise Strategy Group which called for 420,000 new workers by 2010 has to be modified in the current economic context but it was deemed to be important to retain the option of recruitment of non-EEA nationals in the future.⁶¹ The most dependant industry is perhaps the health system where thousands of workers will be needed over the coming decades with the biggest demand occurring for nurses on the basis of an ageing population and the changing roles of society.⁶² Added to that, notwithstanding the economic conditions many immigrants have remained and will remain here due to commitments they have made in Ireland.⁶³ Importantly, the majority of non-EEA nationals [including permit holders and people with refugee status or other forms of protection] enjoy less flexibility in terms of movement, which is one reason why they wish to stay here. This is confirmed by statistics that do not evidence their departure from Ireland.⁶⁴

Bodies such as the National Economic and Social Forum also stress that it would be worth investigating whether people already residing in Ireland, including immigrants, could fill some of these positions by both removing barriers hampering the securing of (skill-appropriate) employment and putting necessary supports in place.⁶⁵ This begs the question if and to what extent the long-term presence of the so called “new communities” has been recognised in the context of the Irish labour market and society in general, given that such a realisation has not yet manifested itself in policies, measures and other initiatives.

1.5 Integration and Social Policy Measures and Statements

Owing to the fact that migration at the present scale has been a recent phenomenon in Ireland and the Irish government also did not seem to create any vision that would entail a strategy towards migrants, the general view is that “immigration policy has been reactive rather proactive, driven initially by

⁵⁷ “Tánaiste Announces Revised Employment Permit Arrangements for Foreign Nationals Seeking Employment in Ireland”, 2009.

⁵⁸ Migrant Right Centre Ireland, *Campaign to Stop the Changes to the Work Permit System*, 2009. Available at www.mrci.ie

⁵⁹ Central Statistic Office, *Foreign Nationals: PPSN Allocations and Employment 2007*, 2009. Available at www.cso.ie.

⁶⁰ Central Statistic Office, *Population and Labour Force Projections, 2006-2036*, 2004. Available at www.cso.ie

⁶¹ Enterprise Strategy Group, *Ahead of the Curve – Ireland’s Place in the Global Economy*, Dublin: Forfás Secretariat, 2004.

⁶² Barrett, A. and Rust, A. , *Projecting the Future Number of Migrant Workers in the Health and Social Care Sectors in Ireland*, Working Paper No. 275, Dublin: the Economic and Social Research Institute, 2009.

⁶³ AIB Global Treasure Economic Research, *Non-National Workers in the Irish Economy*, Dublin: AIB, 2006.

⁶⁴ Central Statistic Office, *Foreign Nationals 2009*.

⁶⁵ National Economic and Social Forum, *Creating a More Inclusive Labour Market*, Dublin: National Economic & Social Development Office, 2006.

asylum applications and then by labour migration trends.”⁶⁶ Mac Éinrí and other commentators have therefore accused the government of applying a ‘guest-worker’ approach assuming temporary character to migration and ignoring the need for considering and planning for the long-term consequences such as issues around integration.⁶⁷ The first array of integration measures was pronounced with exclusive reference to refugees based on the report of the Interdepartmental Working Group entitled ‘Integration is a two way process’ which defined briefly integration in respect of refugees as follows:

“Integration means the ability to participate to the extent that a person needs and wishes in all of the major components of society, without having to relinquish his or her own cultural identity.”⁶⁸

The document also identified practical challenges and proposed the construction of an organisation within which a comprehensive integration policy may be developed.⁶⁹ The establishment of the Reception and Integration Agency, however, was not followed by a detailed strategy to implement integration measures in Ireland since the body has instead placed emphasis on service provision for asylum seekers.

Commentators such as Boucher have argued that Ireland does not have a coherent integration policy, the present Government in fact assigns the responsibility of integration to individuals. He suggests there is an underlying assumption that new groups of EU nationals and non-EU migrants will integrate into society themselves which is one reason why Ireland is aimed at attracting highly skilled non-EEA nationals who are more likely to integrate.⁷⁰ Furthermore, Mac Éinrí stressed the absence of an informed public debate about integration which renders it difficult to build support for any potential government action on integration.⁷¹

The establishment of the Office of the Minister for Integration has been a laudable development seen in the provision of valuable funding projects in 2008 but the institution regrettably suffered from a serious budget cut in 2009. The publishing of ‘Migrating Nation – Statement on Integration and Diversity Management’ was seen as a step into the right direction as the policy statement set out the priorities of the Government’s potential integration policy.⁷² However, the objectives may only be achieved should actions follow the statement with the necessary resources attached. With a clouded economic climate it appears to be a worrying fact that many of the initiatives and measures promised such as setting up the Task Force on Integration, the Commission for Integration and the Minister Council of Integration seem to be on hold.⁷³ These consultative forums were planned to tackle and address issues arising from

⁶⁶ Quinn, Eugene, *Integration: A Challenge in Principle, in Policy and in Practice*, Jesuit Refugee Service, 2007. Available at www.cjf.ie.

⁶⁷ Mac Éinrí & Walley, *Labour Migration to Ireland*, 2003.

⁶⁸ Department of Justice, Equality and Law Reform, *Integration: A Two Way Process*. Report to the Minister for Justice, Equality and Law Reform by the Interdepartmental Working Group on the Integration of Refugees in Ireland, Dublin: DJELR, 2001. p.42.

⁶⁹ Ibid.

⁷⁰ Boucher, G., ‘Ireland’s Lack of Coherent Integration Policy’, *Translocations*, Spring 2008, Volume 3, Issue 1, 2008. Available at www.translocation.ie.

⁷¹ MacÉinrí, P., ‘The Challenge of Migrant Integration in Ireland’, *Intercultural Journal on Multicultural Societies (IJMS)*, Vol.9 No 1, 2007, p. 75-90.

⁷² Office of the Minister for Integration, *Migrating Nation – Statement on Integration Strategy and Diversity Management*, 2008.

⁷³ The Task Force of Integration is to be comprised of various representatives of Irish society. Its focus would be as to how participation of migrants in various components of society (economic, social, cultural and civic) can be improved. The Commission for Integration is to include academia and professionals. Its main task would be to inform public debate in relation to integration and advise the Minister on pertaining matters. The Minister Council of Integration is to be convened from the various groups of migrants to articulate challenges faced by migrants and identify means to overcome them. Ibid.

the arrival of migrant populations. Meanwhile other forums were abolished with the last Minister for Integration reasoning that they become obsolete following the establishment of his Office.⁷⁴

In 2005 the National Action Plan Against Racism 2005-2008 (NPAR) spelled out a strategy to build a more inclusive society free from racism.⁷⁵ The NPAR had implications to clarify the content of integration as it explicitly mentioned economic inclusion and equality of opportunity as one of its main objectives. The Department of Justice and the National Consultative Committee on Racism and Interculturalism jointly operated a grant scheme to fund organisations working towards the objectives of the plan. Since then not only did the grant scheme discontinue but the NPAR was not followed with a new strategy. Recently the National Consultative Committee on Racism and Interculturalism (NCCRI) was also closed down by the Government due to budget measures. This marked the end of a key partnership body in the area of racism and interculturalism. These developments along with the delays with regard to the establishment of consultative forums put in doubt the ‘partnership’ approach emphasised in the policy statement “Migration Nation” and justifies the criticism of Boucher who pointed out the absence of central integration policy.⁷⁶

The National Action Plans Against Poverty and Social Exclusion was developed on the foot of the Lisbon agenda that aimed, among other things, to eradicate poverty and social exclusion. Its successor, The National Action Plan for Social Inclusion 2007-2016 incorporated a specific focus on the group of migrants and committed to the development of a strategy that realises the integration of newcomers in the Irish society. One of its key indicators measuring progress in the area of employment is the gap between the level of employment of migrants and that of indigenous population.⁷⁷ It was stressed by commentators however that the targets on the migrant population are quite vague and need to be elaborated.⁷⁸

1.6 European Context

The European Employment Strategy laid particular emphasis on the economic inclusion of third country nationals. It is intended that this principle be developed and implemented through the National Reform Programmes.⁷⁹ Ireland is also required to give annual report on the labour market participation and social integration of migrants including third-country nationals. The European Anti-Poverty Network Ireland is the local network of the various groups and individuals combating poverty. The umbrella organisation highlighted the implications of the Strategy in terms of reducing the employment gap between third-country nationals and EU citizens, acknowledging that a more inclusive economy and society may only be created if key consideration is given to access to, and inclusion in the labour market.⁸⁰

The Common Basis Principles of Integration were adopted by the European Council to lay out the main components of achieving integration. It also contained explanation to give direction but not to confine Member States action in adopting domestic measures. The third principle is as follows:

“Employment is a key part of the integration process and is central to the participation of

⁷⁴ *Irish Times*, ‘Lenihan Defends Moves on Racism’, 27 October, 2008. Available at www.independent.ie.

⁷⁵ *National Action Plan Against Racism 2005-2008*, Dublin: Department of Justice, 2005.

⁷⁶ Boucher, G., ‘Ireland’s Lack of Coherent Integration Policy’, 2008.

⁷⁷ *National Action Plan for Social Inclusion 2007-2016*, Dublin: Office of Social Inclusion, 2007.

⁷⁸ European Anti-Poverty Network Ireland, *Integration of New Communities*, EAPN Ireland Paper for Social Inclusion Forum, 15 November, 2007. Available at www.eapn.ie.

⁷⁹ *EU Commission COM (2003) 336 Brussels*

⁸⁰ European Anti-Poverty Network Ireland, *Briefing on the European Employment Guidelines and the National Reform Programme 2005-2008*, 2005. Available at www.eapn.ie

immigrant, to the contributions immigrants make to the host society, and to making such contributions visible.”⁸¹

The Principles are regarded as a main source of influence for forming a domestic integration policy.

1.7 Employment and Equality Law

Employment and equality law has important implications for non-EU nationals’ access to employment. Firstly, Ireland is a signatory to the Convention on the Elimination of All Forms of Discrimination (IERCD). This treaty aims to abolish all kinds of discrimination and enshrines the right to work for everyone including people from outside the EEA. Secondly, the Employment Equality Act 1998 and the Equal Status Act 2000 are the primary domestic statutory instruments dealing with equality and anti-discrimination. The European Union adopted Directives in this field that were transposed into Irish law by the Equality Acts 2004 that subsequently amended the two previous legislations.⁸² The Employment Equality Act specifically deals with instances of discrimination at the workplace that explicitly bans discrimination in relation to access to employment save for domestic workers.⁸³ Importantly, unlike the original Directive, the Act prohibits discrimination on the ground of nationality. However, due to the new amendment in 2004 this prohibition is without prejudice to the preference of EU nationals over non-EU nationals’ as specified by the relevant employment permit legislation. Prior to the amendment in the equality legislation this practice was outlawed by the Equality Tribunal/Labour Court in *Eng v St James Hospital* where a non-EEA national doctor was obliged to take up unpaid intern position as opposed to paid post. Namely, the Officer held that under community law and work permit rules employers are required to treat Irish and non-Irish candidates equally but are not obliged to treat non-EEA nationals less favourably. This conclusion may not be arrived at under the current legislation. Nonetheless the Officer also concluded that while employers are obliged to give preference to EEA citizens as per employment permit legislation with reference to employment opportunities they may not allocate paid post to EEA nationals and unpaid post to non-EEA nationals. This arguably is still a valid interpretation.⁸⁴

⁸¹ COM(2205)0389 FINAL

⁸² Directive 2000/43/EC, Directive 2000/78/EC and Directive 2002/73/EC.

⁸³ The lack of protection of domestic workers against discrimination while searching for employment was denounced by the NCCRI and other commentators. National Consultative Committee on Racism and Interculturalism, *Submission to the European Commission against Racism and Intolerance*, 2006.

⁸⁴ The Equality Tribunal, *Eng v St James Hospital*, DEC-E 2001-01. Labour Court, Determination, EDA 023, May 29, 2002.

Chapter 2: Accessing the Labour Market

2.1 The Various Routes to Enter the Labour Market

Registration with immigration authorities

Nationals of visa-required countries are required to obtain entry visa at the nearest Embassy/Consulate in order to be allowed to land in Ireland. All non-EEA citizens except for asylum seekers have to register with the Garda National Immigration Bureau or the Local Superintendent at the Garda station outside Dublin to receive permission to remain in Ireland for longer than three months. This takes the form of Residency Stamps (1-4) in their passport and clearly sets out the conditions of their staying in Ireland. In 2007 there were approximately 150,000 registered non-EEA nationals in Ireland. This figure had tripled since 2000.⁸⁵

EEA and Swiss citizens

People from the European Economic Area and Switzerland⁸⁶ do not need to organise their employment prior to their arrival. This freedom was extended to the new acceded EU countries in 2004. However, Romanian and Bulgarian citizens who joined the EU in 2007 are still required to hold permission to work.

Employment permit holders

With a few notable exceptions detailed below, people outside the EEA area may enter the Irish labour market if they are given permission by the Department of Trade, Enterprise and Employment. Since the enactment of the Employment Permit Act 2006 both employee and employer may apply for the permit which is then issued with a specified employer for a certain position. A valid job offer is a central element of an employment permit application along with evidence of possessing the relevant skills, qualifications and experience. A positive element of the new system is that applicants are no longer required to hold specific qualification stipulated in work permit legislation – as was a requirement in the work authorisation/visa scheme - but instead can meet general qualification requirements valid for all candidates. Employees are expected to stay with the employer for a minimum period of one year and then they are permitted to change employer provided that there is valid job offer.⁸⁷ Their residency depends on the validity of their work permit (Stamp 1).

The new legislation in 2006 introduced a Green Card scheme. This offers the prospect of permanent residency, insofar as the forthcoming Immigration and Residency Bill states that upon the renewal of their permit Green Card Permit holders may apply for long-term residency status where the two-year period counts towards residency. Until this Bill was enacted, Green Card permit holders were given permission to work without a permit following the completion of the two-year period by issuing them with the appropriate residency stamp (Stamp 4). The Green Card Scheme is aimed at highly skilled occupations and is not issued below the salary level of €30,000. There are a limited number of eligible positions with salary ranging between €30,000 and €59,999 in fields that are considered to still suffer from skill shortages. Recent developments substantially narrowed the list of eligible professions in this

⁸⁵ Quinn, Emma, *The Organisation of Asylum and Migration Policies in Ireland*, Dublin: European Migration Network and Economic and Social Research Institute, 2009.

⁸⁶ The European Economic Area consists of the current members of the European Union and Norway, Lichtenstein and Iceland.

⁸⁷ This put an administrative practice on legislative footing to prevent abuse of the permit system by employers.

category. Above the salary level of €60,000 any positions may be applied for other than those contrary to public interest.⁸⁸

There is a long list of low-skilled occupations (most labourers, operatives and craft workers) that are ineligible to be applied for under the Work Permit scheme. In addition to that, below the salary level of €30,000 the scheme further limits the scope of eligible positions (from Jun 1st 2009 permits will furthermore be granted only in exceptional cases⁸⁹). A labour market test has to be applied with every work permit application that entails advertising at the FÁS /EURES network and the local newspaper to ensure that no EEA nationals at first, and no Romanian or Bulgarian citizens at second instance, can be found to fill the post. Replacing the requirement of annual renewal with two years and further three years validity in 2007 eased the administration burden on employers. Following five years spent under the permit it can be renewed indefinitely. Applicants of Spousal/Dependent Work Permit are currently exempt from satisfying the labour market test and are allowed to work in any occupations; however, new applicants from 1st June will be treated in the same manner as work permit applicants.⁹⁰ The validity of their permit is tied to the original permit holder and they retain their Stamp3 even when they are granted employment permit.⁹¹

Student visa holders (Stamp 2)

Currently student visas can be issued for non-EEA citizens admitted to full-time courses of at least one year's duration, leading to a qualification recognised by the Minister of Education and Science.⁹² Crucially, the period spent on student visa does not count towards residency. They are currently permitted to take up part-time employment during study term and full-time positions during vacation period. The Department of Trade is in the process of constructing new regime that will bring students visa holders under the work permit system. This will bring enhanced protection for non-EEA students in employment it will however also act as a disincentive in respect of their recruitment by enacting a more bureaucratic regime. Due to a recently enacted scheme non-EEA graduates holding at least a primary degree at approved educational institutions are permitted to stay in Ireland after finishing their studies for six month in order to secure employment and obtain permission to work from the Department of Trade (either a green card or work permit).

Intra-company transfer

The Intra Company Transfer is available for transfer of senior management, key personnel or trainees who are non-EEA national employees of an overseas branch of a multinational company to its Irish subsidiary. It is available for 24 months in the first instance and can be renewed for three years. There has been only a few hundreds of non-EEA nationals authorised annually to work in Ireland on the foot of intra-company transfer.⁹³

⁸⁸ "The public interest includes

(a) public order and the interests of national security,

(b) public health and safety, and

(c) the need to protect the labour market;" *Section 1 of Employment Permit Act 2006.*

⁸⁹ 'Tánaiste Announces Revised Employment permit Arrangements for Foreign Nationals Seeking Employment in Ireland' , 2009

⁹⁰ Ibid.

⁹¹ People issued with Stamp 3 are not allowed to enter into employment in Ireland with the aforementioned exception of spousal/dependent permit holders.

⁹² Since 2006 students taking part in preparatory courses are barred from entering into employment.

⁹³ Department of Trade, Employment and Enterprise, *Employment Permit Statistics 2002-2009.*

Non-EEA citizens with residency (Stamp 4)

There are several groups of non-EEA citizens who are entitled to work without an employment permit. People who were granted refugee status under the Refugee Act and people who were granted leave to remain at the discretion of the Minister for Justice and under the IBC scheme as parents of Irish born child enjoy unrestricted access to the labour market.⁹⁴ Non-EEA family members may also enjoy the same the right: family members of refugees and those EU citizens who are in full-employment/self-employed have statutory right to join refugee/EU citizen family members in Ireland and are also permitted to enter into employment without employment permit.⁹⁵ Spouses and family members of Irish citizens may be granted permission to remain in Ireland which enables them to work in Ireland freely. Work permit holders after continuous 60 months spent on work permit or green card holders after two years employment may receive long-term residency status and thus no longer need to hold permission to work. Regrettably, there have been serious delays in processing applications for long term residency in general and further obstacles for applicants who had gaps in their residency through no fault of their own (mostly due to administrative delays of processing their employment permit application for renewal).⁹⁶

Asylum seekers

Currently non-EEA nationals seeking asylum are not permitted to work. This position is out of line with the majority of EU states and commentators have called for allowing asylum seekers to work after a certain period of staying in Ireland.⁹⁷

2.2 Support with Accessing the Irish Labour Market

Refugees, people with leave to remain and other resident non-EEA nationals (Stamp 4) enjoy rights equivalent to Irish citizens with regard to seeking employment. They are entitled to state support by the state employment agency (FÁS) and the Local Employment Services (LES). FÁS provides recruitment services for jobseekers including self-service facility of searching for vacancies and posting CV online in a database for potential employers and offers one-to-one guidance and run training courses. The Local Employment Services are focused on providing more intensive guidance and placement services for the group of long-term unemployed. The Centres of Unemployed run courses and job-clubs for the unemployed in most cities and towns in Ireland. Both LES and the Centres of Unemployed have received many migrant clients in recent years. Refugees are reportedly frequent clients of these services.⁹⁸

Applicants for employment permit may learn about vacancies through recruitment agencies, from the company itself that advertised or actively recruited in their country of origin, or in some case they make use of their network that can put them into contact with the agency and then the employer. A research studying three dominant non-EEA nationality groups - Nigerians, Indians and Chinese - concluded that once in the country they also make use of internet and newspaper when seeking employment. It found

⁹⁴ People with subsidiary protection may also seek employment freely.

⁹⁵ Previously a non-EEA family member of an EU citizen had to be lawfully resident in another Member State in order to reside or join the EU citizen in Ireland. This Regulation was amended in 2008 due to the judgment of the European Court of Justice in case C-127/08-Metock and Ors v Minister for Justice, Equality and Law Reform. The Court found that application of the free movement is not conditional on prior lawful residence in another Member State.

⁹⁶ Migrant Rights Centre Ireland, *Bridging Visa Campaign*. Available at www.mrci.ie.

⁹⁷ Nasc, *Integrating the Future*, 2008.

⁹⁸ Dunbar et al, *Evaluating the Barriers*, 2008.

that internet is a more frequent medium for Indians and Chinese than for Nigerians.⁹⁹ Student visa holders do not have to organise their work prior to their arrival and it can be suggested that in the majority of the cases they start seeking employment after their arrival.¹⁰⁰ Both employment permit and student visa holders receive advice/reference from personal contacts when looking for work.¹⁰¹

By and large, the tendency of immigrants to rely on their own fellow-citizens contributes to their clustering in workplaces. It was observed that many workplaces recruited one or several number of 'pioneer' permit holders who paved the way for many other fellow-citizens to follow them.¹⁰² This solution was favoured by many employers as they are provided with workers at a minimum effort and they build up experience in relation to their recruitment and employment.¹⁰³ This occurs primarily in the service industry (the retail, hospitality and other services sector) out of convenience for employers. In the health sector it is a more conscious decision by employers who value qualifications of specific countries and has been reinforced by national schemes to attract nurses from the Philippines, India and Bangladesh. Permit holders and people on student visa may avail of the services of private recruitment agencies; however they are not entitled to seek assistance of the state agencies such as FÁS or the Local Employment Service.

Voluntary organisations may assist job search of immigrants by providing employment support courses and referring them to agencies and websites. A highly regarded initiative is the Employment Programme from Immigrant Communities which is the only programme targeted at immigrants that is (partially) funded by the Government.¹⁰⁴ The programme was originally aimed at providing access to the labour market to single-headed households that had been granted to leave to remain on the basis of being a parent of an Irish-citizen child. The present scheme administered by the Business in Community organisation targets vulnerable legally resident migrants in various communities in the Dublin area to assist them with finding employment, training and education. It provides a comprehensive course for migrants that consist of English for Employment class, computer class, life and work skills and CV preparation. The training module is complemented by professional one to one assistance.

Another successful scheme operated by the Jesuit Refugee Service was entitled 'Community Link' and it entailed three major programmes in 2007. The Capacity Building Programme included training courses to assist long-term unemployed refugees to access employment, namely job seeking skills, intercultural communication, interview skills, CV preparation and personal development courses.¹⁰⁵ There were/are a few other local programmes/projects by migrant organisations mainly in cities such as Dublin, Limerick or Cork, run by migrant organisations and local partnership companies (the latter one also manages the LES in their respective area).

⁹⁹ The Migration and Citizenship Initiative (UCD) for Immigrant Council of Ireland, *Getting on: From Migration to Integration – Chinese, Indian, Lithuanian and Nigerian's Migrant Experience in Ireland*, Dublin: Immigration Council of Ireland, 2008.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Maria-Gonzalez et al, 2005

¹⁰³ Ibid.

¹⁰⁴ See www.bitc.ie

¹⁰⁵ See www.jrseurope.org/countries/ireland.htm

2.3 Challenges Facing Job-seeker Third-Country National

English language

Analysis based on the data gained from Quarterly Household National Surveys underscored the fact that immigrants particularly from non-English speaking countries appear to have more difficulty securing employment in particular at skilled positions, which is why English language skill is seen as “important policy lever to avoid or reduce labour market disadvantage among immigrants.”¹⁰⁶ Barrett and Duffy arrived at similar conclusion and also illustrated that this gap does not seem to narrow over a period although it does not affect non-EU workers to the same extent as citizens of the new EU member states.¹⁰⁷ The Interdepartmental Working Group on Integration underlined the importance of English language in terms of satisfying the condition of ‘capable of seeking work’ which is one element of the test to be met in order to secure jobseeker assistance/benefit but it is ultimately vital to secure (skill-appropriate) employment.¹⁰⁸ However, the provision of English language education to adults was described as not accessible nor affordable to many since there are limited resources available for quality and affordable adult English course providers.¹⁰⁹ The positive initiatives taken by Fáilte Ireland and several employers are to be acknowledged but they cannot replace centrally devised English language provision. Courses are not organised by a central unit or in a co-ordinated fashion and run largely by voluntary providers while introductory/orientation modules do not feature regularly as part of the curriculum.

A substantial number of courses are provided by the VECs (Vocational Education Committees) with most recently County Dublin VEC managing this process through ‘English for Speakers of other Languages’ (ESOL) courses.¹¹⁰ However, the availability and length of those courses vary depending on resources and standards are not clearly established yet in terms of curriculum and evaluation.¹¹¹ In January 2009 County Dublin VEC commenced the Adult Refugee Programme which aims at equipping participants with both better English language and social/cultural skills through courses.¹¹² The programme is currently running at nine locations across the country but it is planned to expand the scheme both in terms of locations and courses on offer. Another recent positive development is that students may enter ESOL courses through the Back to Education Programme free of charge. This is a measure which is aimed at social welfare recipients wishing to participate in educational/personal development courses for the purpose of gaining employment.¹¹³ It remains to be seen if these new initiatives will address the problem of English language provision in a comprehensive manner.

Discrimination

According to the aforementioned research, immigrants are three times more likely to be discriminated against when looking for work. It was observed that people with the broad Black ethnicity are especially exposed to major obstacles in their search for employment resulting in strikingly high level of unemployment which they felt can be accrued to discrimination in many cases. Added to that, this group of people reports a low level of participation at the labour market with a

¹⁰⁶ O’Connell & Mc Ginnity, *Immigrants at Work*, 2008, p.xii.

¹⁰⁷ Barrett, A. and Duffy, D., ‘Are Ireland’s Immigrants Integrating into its Labour Market?’, 2007.

¹⁰⁸ Department of Justice, *Integration: A Two Way Process*, 2001.

¹⁰⁹ Healy, C., *On Speaking Terms: Introductory and Languages Programmes for Migrants in Ireland*. Dublin: Immigrant Council of Ireland, 2007.

¹¹⁰ Integrating Ireland Language and Training which previously provided free courses for refugees has been abolished.

¹¹¹ Healy, 2007, *Introductory and Languages Programmes for Migrants in Ireland*, 2007.

¹¹² The National Adult Refugee Programme, ‘La Cheile’, Newsletter, No.1, May 2009, Dublin County Vocational Education Committee, 2009.

¹¹³ ESOL stands for English for Speakers of Other Languages.

significant number providing home duties.¹¹⁴ The group of Asian respondents also experienced impediments to their labour market participation but to a lesser degree.¹¹⁵ Exploring the specific experience of the group of Nigerians (which constitutes the biggest African minority group in Ireland) or that of a wider group of Africans a similar finding can be made in terms of access to work.¹¹⁶ A most recent study evidenced clear discrimination in the selection process where researchers sent identical CVs to employers with only the name being different.¹¹⁷ People with Irish names were twice as likely to be called for an interview as candidates with non-Irish names. Notably there were not any differences between discrimination faced by candidates with German, Asian and African names.¹¹⁸ It suggests that migrants and native applicants tended not to compete for the same position until 2008. This may have allowed for the reception of large number of migrant workers in various industries.

Interview and presentation skills

Related to cultural issues is the question of interview and presentation skills. In particular non-EU migrants may have arrived from an environment where people are not required to possess the same interpersonal and writing skills that are expected from applicants in Ireland.¹¹⁹ It may well be the case that they are accustomed to distinct customs or formulae so they need guidance to learn those skills in the Irish labour market.¹²⁰ As to employment support services, there is no specific policy towards refugees and people with other forms of protection nor has been any training among service providers as to how to assist them with accessing employment.¹²¹ The dedication and commitment of councillors in Local Employment Service and job coaches in the Centres of Unemployed has been acknowledged by commentators but they have called for the appointment of dedicated staff and deployment of specific training.¹²² An OECD study noted that the number of staff in these organisation, “relative to the number of wage and salary earners in the economy, appears to be relatively low, about half the average of staffing of institutions responsible for the placement function in Australia and Northern and Western Europe (...)”.¹²³ In general it was argued that public services have not responded to the needs of this group of people since “there is no clear procedure or processes for assisting legally resident migrants and refugees to ‘find their way’ or to ‘navigate the institutions and structures’ in place in Ireland”.¹²⁴

Changing jobs

When accessing employment, many immigrants tend to be content with the job at the beginning. Over a long period this positive experience may turn into a controversial one for the reason that many of them may not avail of training opportunities and employment services in general and thus are confined to their current position. Firstly, FÁS only provides courses for people with residency and permit holders

¹¹⁴ O’Connell & Mc Ginnity, *Immigrants at work*, 2008.

¹¹⁵ Ibid.

¹¹⁶ Dunbar et al, *Evaluating the Barriers*, 2008. The Migration and Citizenship Initiative, *Getting on: From Migration to Integration*, 2008.

¹¹⁷ Mc Ginnity, F., Nelson, J., Lunn, P. and Quinn, E., *Discrimination in Recruitment – Evidence from a Field Experiment*, the Equality Authority & the Economic and Social Research Institute, 2009.

¹¹⁸ Ibid.

¹¹⁹ M. Hegarty, F., *Black African Women in the Irish Labour Market*, Dublin: Akidwa, 2007.

¹²⁰ *Education in Employment Project*, eds. Linehan, M. and Hogan, E., *Migrants and Higher Education in Ireland*, Cork: CIT Press, 2008.

¹²¹ Dunbar et al, *Evaluating the Barriers*, 2008.

¹²² Nasc, *Integrating the Future*, 2008.

¹²³ Grubb D., Singh, S. and Tergeist, P., *Activation Policies in Ireland*, Organisation for Economic and Social Development Working Paper No. 75., DELSA/ELSA/WD/SEM(2009)01, Paris: OECD, 2009, p.5.

¹²⁴ Trotman, *Evaluation of the Family Reunification and Integration Pilot Project*, 2008, p.23.

and student visa holders are excluded from their services. Secondly, vocational (and higher educational) courses may not be affordable to non-EEA nationals who are required to pay so-called economical fees at third-level and further education institutions.¹²⁵ Thirdly, they may also not be aware of the courses available for them and are not familiar with the admission policy attached to the courses. There is lack of clarity regarding eligibility requirements especially in higher education and services are not tailored towards potential migrant participants.¹²⁶ Many immigrants have shift work which render attending courses on a regular basis difficult. It was suggested that some employers may not be supportive of their training with indigenous employers being less flexible than multinationals. The missed opportunity to enhance their skills puts migrant workers in a position with little to bargain with. This fact is compounded by the current contraction of the labour market. It is fair to say, however, that there are good examples in particular in the hospitality and IT sector where immigrants are encouraged to participate in training and up-skilling.

Work permit holders may also face bureaucratic challenges when changing employers. Although they are not bound to the employer after one year employment following the enactment of the Employment Permit Act 2006, the requirement of applying for a new work permit upon changing employer along with paying the fee and the fact that the period counting towards residency restarts, render the process cumbersome. This latter requirement does not apply to Green Card holders and migrant organisations propose that work permit holder should also be permitted to move freely in their occupation to decrease their dependence on the employer.¹²⁷ In 2007 and 2008 approximately every fifth work permit holder changed employers.

Undocumented workers

Migrant organisations have campaigned for a long time for ex-permit holders who have lost their permit through no fault of their own including redundancy, exploitation or employers failing to renew their permit.¹²⁸ Therefore, the introduction of three month residency extension for ex-permit holders who were made redundant was welcomed although the three months period is deemed to be rather short.¹²⁹ The arrangements coming into effect in June will require implementing a Labour Market Test also for those made redundant¹³⁰. In 2007 FÁS introduced a new policy towards this group of non-EEA nationals by allowing them to register on FÁS's database of vacancies and avail of an interview with an Employment Services Officer. While welcoming these developments, Migrant Rights Centre of Ireland (MRCI) pointed out that not all front line service providers were aware of this policy change.¹³¹ Besides, several migrant organizations called for a bridging visa of six months for all types of undocumented workers who lost their residency through no fault of their own that would allow them to stay in Ireland and regularize their situation.¹³²

¹²⁵ This may be three times as high as fees for EU students. Irish Vocational Education Association (IVEA), 2005, *Volume IV English Language Provision for Migrant Workers* (an IVEA Working Group Publication), Dublin: IVEA, 2005.

¹²⁶ *Education in Employment*, 2008.

¹²⁷ Migrant Rights Centre Ireland Restaurant Workers Action Group, *Exploitation in Ireland's Restaurant Industry*, Dublin: Migrant Rights Centre Ireland, 2008.

¹²⁸ Migrant Rights Centre Ireland, *Bridging Visa Campaign*. Nasc, 2008.

¹²⁹ Following the three month period, applications are dealt with on a case to case basis.

¹³⁰ "Tánaiste announces revised employment permit arrangements for foreign nationals seeking employment in Ireland", 2009.

¹³¹ Migrant Rights Centre Ireland, *MRCI e-bulletin September-October 2007*. Available at www.mrci.ie

¹³² Migrant Rights Centre Ireland, *Bridging Visa Campaign*. Nasc, 2008..

Changing occupations

Both permit holders and non-EEA nationals with residency entitlements have reported difficulties when attempting to change occupations. Arguably this can be mainly attributed to limited work experience in Ireland but it can tentatively be concluded that employers' preference of specific group of non-EEA nationals in specific workplaces may also have a role to play. In fact industry wide dominance of certain nationality groups and under representation of others can be observed. The prime example of that is the health sector where South Asian professionals, in particular nurses and medical practitioners are highly regarded and represented in large numbers. A survey carried out among 132 service and manufacturing companies illustrated that retail sector tend to favour Asian applicants over other non-Irish nationals including EU and non-EU citizens.¹³³ This potential preference is partly disproved by statistics that shows dominant presence of citizens of new accession states but also illustrates the significant number of non-EU nationals.¹³⁴ The aforementioned research studying Indian and Chinese nationals reinforces this preference since many of the Chinese respondents were employed in sales and other professional services while many of the Indians held positions in the health sector.¹³⁵ Nigerians interviewed in this research were concentrated in personal service occupations in the catering sector and other services industry (mainly security personnel).¹³⁶ In contrast, companies in the financial sector and construction reported preference of EU nationals (to be precise, citizens of old EU states in the financial sector and new EU nationals in the construction industry).¹³⁷ Again, data and research sheds light to the presence of a group of non-EEA nationals in the financial and IT sector, but the majority came through the employment permit system.¹³⁸ To sum up, the current predisposition observed in certain sectors may create special hardship for those who were trained in another occupation either abroad or in Ireland than the one they are employed in and wish to use those skills. Immigrants who have completed a course in Ireland are more like to succeed but many of them may be still denied entry to a new occupation.¹³⁹

Absence of network and family

International experience shows that the absence of network can hamper immigrants' access to the labour market. In Ireland many employers ask for references and proof of work experience. This requirement presents migrant jobseekers with great difficulties. As mentioned above, those job-seekers who have fellow-citizens in an occupation or, at least in the sector, may stand a better chance of securing job in the specific occupation. Local initiatives portray the need for establishing links between businesses and more marginalised nationality/ethnic groups. Forums that brought together employers and jobseekers from these groups appeared to have the capacity to build bridges over information and cultural gaps which in several cases was followed with an actual job offer.¹⁴⁰

Childcare has also been identified as additional challenge for immigrants who do not have family members to rely on. Since Ireland does not operate a publicly funded childcare system parents either

¹³³ Flood, P.C., Mkamwa, T., O'Regan, C., Guthrie, J.P., Liu, W., Armstrong, C. and MacCurtian S, *New Models of High Performance Work Systems – A Business Case for Strategic HRM, Partnership and Diversity and Equality Systems*, Dublin: the Equality Authority and National Centre for Partnership and Performance, 2008.

¹³⁴ Central Statistic Office, *Foreign National 2009*.

¹³⁵ Personal services include positions in the catering and hotel sector and other service occupation such as security person. The Migration and Citizenship Initiative, *Getting on: From Migration to Integration*, 2008.

¹³⁶ *Ibid.*

¹³⁷ Flood et al, *New Models of High Performance Work Systems*, 2008.

¹³⁸ The Migration and Citizenship Initiative, *Getting on: From Migration to Integration*. Department of Trade, *Employment Permit Statistics 2002-2009*.

¹³⁹ Dunbar et al, *Evaluating the Barriers*, 2008. *Education in Employment*, 2008.

¹⁴⁰ Trotman, *Evaluation of the Family Reunification and Integration Pilot Project*, 2008.

have to pay for services of a childminder/crèche or leave their children to the care of their family members. It is not difficult to see that immigrants without (non-active) family members present cannot avail of the second option while financial hardship may prevent them from paying for childcare. As a corollary, they may not be able to access the labour market.¹⁴¹

Many people outside the EEA (particularly from non-English speaking countries) face great, in some cases insurmountable, challenges to have their prior qualifications recognised and to register with professional bodies. This is a fact which was also borne out by both research and cases before state agencies. This will be analysed in detail in the next section.

Particular challenges faced by refugees

As indicated above refugees are a specific group subject to major barriers during their search for employment. In a conference the Irish Refugee Council cited their own estimation that put unemployment among refugees between 30 and 40% in 2003.¹⁴² This number appears to be low in comparison to the calculation of a research in 2007 that reported 70% unemployment in this group.¹⁴³ Many of the refugees have Black ethnicity which appears to be a disadvantaged group at the labour market. Several other reasons have been cited to inform refugees' experience at the labour market such as the gap in their education and employment due to the prolonged asylum process, segregation from society on account of the direct provision system for asylum seekers and the absence of documents to verify their prior qualification and experience. It was also suggested that several employers are not aware of their full entitlement to work or in general they see refugees as a group of non-economic immigrants without skills.¹⁴⁴ Regarding the wider group of migrants in Ireland, it was argued that lack of awareness of their rights and entitlements may serve as hindrance in the recruitment process.¹⁴⁵

2.4 Challenges for Employers Hiring Non-EEA Migrants

Local research and discussion has identified issues that concern employers and may result in their refusal to hire third-country nationals or recruit them at their skill level.¹⁴⁶ Among those, inadequate level of English language, the difficulty with verifying overseas qualification, experience and references were explicitly mentioned. It was also put forward by employers especially by those hiring permit holders that employing non-EU citizens can be a bureaucratic process and resource-demanding as a result of training immigrants and facilitating their integration in the workplace or paying the fee for the employment permit which can act as disincentive. Some of them added the lack of accessible and clear information on the various relevant rules, be it employment permit legislation or visa regulations, leads to their incomplete understanding of third-country nationals' access to the labour market.¹⁴⁷ IBEC was at pains to stress that it would welcome a combined system where request for residency and

¹⁴¹ M. Hegarty, F., *Black African Women in the Irish Labour Market*, 2007.

Irish parents may face similar difficulties since some of them do not receive family support. CSO statistics shows that women's labour market participation in Ireland strongly correlates to the age of their children, that is to say, mothers whose children three years old or younger were less likely to access the labour market. Central Statistic Office, *Men and Woman in Ireland*. 2005. Available at www.cso.ie

¹⁴² Irish National Organisation of the Unemployed, *Recognising Ability Conference, Overcoming Barriers Experienced by Refugees and Asylum Seekers, People with Disabilities and Travellers*, Marino Institute of Education, September 2003. Available at www.inou.ie

¹⁴³ Coakley, L. and MacÉinrí, P., *The Integration Experiences of African Families in Ireland*, Dublin: Integrating Ireland, 2007.

¹⁴⁴ Trotman, *Evaluation of the Family Reunification and Integration Pilot Project*, 2008.

¹⁴⁵ National Consultative Committee on Racism and Interculturalism, *Submission to the Immigration and Residence in Ireland Discussion Document*, 2005. Available at www.nccri.ie.

¹⁴⁶ Dunbar et al, *Evaluating the Barriers*, 2008. Refugee Information Service, *Report on the Employment Roundtable*, 2008.

¹⁴⁷ Ibid.

employment permit will be examined simultaneously. In general they view the present machinery as rather bureaucratic.¹⁴⁸

2.5 Profile of Immigrants

Sectors and occupations

Non-Irish nationals filled approximately half of the positions created in Ireland between 2002 and 2006 whilst the unemployment rate remained relatively unchanged.¹⁴⁹ By 2008 they represented 16% of the workforce or 315,000 workers. Many sectors employed a significant number of immigrants such as financial and other business services, wholesale and retail trade, manufacturing, construction and hotels and restaurants. The latter one has the highest proportion of migrant labour; approximately every third employee is foreign-born. This concentration is relatively high in comparison to other OECD countries.¹⁵⁰ To conclude, immigrants have permeated nearly every sector in Ireland and have become a corner stone of the Irish economy (Mc Coy, 2006). Exploring the various occupations, every broad occupational group has at least 10% of its workforce made up of non-Irish nationals however, higher skilled occupations, for instance managers and administrators, clerical and secretarial workers, have a lesser share of foreign nationals. Where non-Irish nationals are employed in these occupations they are chiefly employed in the Financial and business activities and the Health and social work sector. In contrast, sales occupations, operatives, service workers and labourers represent a higher proportion of non-Irish nationals; the numbers indicate that three fifths of kitchen porters, half of waiters, and more than a third of food operatives, building labourers and chefs arrived from abroad in the period of 1999-2007 with sales assistants and cleaners accounting for the highest number of non-Irish workers in absolute terms.¹⁵¹

Workers from outside the EU/EEA accounted for 4% of the workforce or 80,000 people in 2008.¹⁵² Non-EEA citizens are not present in every sector to the same extent however. According to statistics, a large proportion of non-EEA nationals are concentrated in the Hotel and catering, the Health and social work, the Financial and other business sector and wholesale and retail trade whereas their numbers are dwarfed in Construction and Manufacturing sector in comparison with EU nationals.¹⁵³ The hotel and catering sector has the highest number of non-EEA workers; here they have the strongest presence in restaurants. However, health professionals from outside the EU (and the USA) dominate the group of foreign workers in the Health and social work sector. To be precise, in 2007 non-EU nationals accounted for 80% of non-Irish nurses and 45% of non-Irish chefs which occupations are among the ones with highest numbers of non-nationals.¹⁵⁴ Several reasons were quoted in a research as to why there are difficulties recruiting chefs among natives; these include inadequate numbers of qualified Irish chefs, unsociable hours and specific skills in respect of ethnic cuisine.¹⁵⁵ Other highly skilled non-EU workers include medical practitioners and specialists, social workers, IT professionals (computer analysts/programmers and software engineers), accountants and engineers. As mentioned in the previous section, the majority of highly skilled non-EU workers arrive through the permit system

¹⁴⁸ Irish Business and Employers Confederation, *Immigration and Residency in Ireland*.

¹⁴⁹ Central Statistic Office, *Foreign Nationals*, 2009.

¹⁵⁰ Ibid. *International Migration Outlook*, SOPEMI 2007 Edition, Paris: OECD, 2007.

¹⁵¹ *National Skills Bulletin 2008*.

¹⁵² Central Statistic Office, *Foreign Nationals*, 2009.

¹⁵³ Ibid.

¹⁵⁴ Ibid.; *National Skills Bulletin 2008*.

¹⁵⁵ *Education in Employment*, 2008.

according to statistics and research.¹⁵⁶ Non-EU workers are also well represented among care workers, sales occupations, cleaners and food preparation workers.¹⁵⁷

Nationalities, age and family circumstances

In absolute terms, Census 2006 reported that the most populous nationality groups from outside the EU in Ireland are Nigerian, Chinese, American, Filipino and Indian.¹⁵⁸ According to work permit statistics, most of the non-EEA permit holders are citizens of Ukraine, India, Philippines, China, Malaysia, Brazil, South-Africa, Australia and the United States.¹⁵⁹ The most prominent group of refugees are Nigerians who constitute the biggest African nationality group in Ireland with many of them also receiving leave to remain as part of the IBC scheme. Citizens of Romania,¹⁶⁰ Sudan, Pakistan, Iraq and Congo are also highly represented among people with refugee status in Ireland.¹⁶¹ Regarding non-EEA students, students from North-America and Asia accounted for the majority of the people with student visa. The United States, China and Malaysia had the highest representation among non-EEA students in higher education.¹⁶²

The non-Irish born workforce is still predominantly composed of younger age cohorts with the majority of them being at working age.¹⁶³ Many of them live without dependants; a fact that can be demonstrated by the low number of children born outside Ireland. However, historical experience shows that dependants follow immigrant over a period of time. Secondly, long term migrants do have family members with them or expect to be joined by them. Thirdly, there are a significant number of children who gained Irish citizenship through birth while many of their parents are classified as immigrants. There is little known regarding migrant dependants in general in Ireland as there has not been comprehensive research and data collection focusing on this group of immigrants. This also naturally explains the lack of policy tailored to them. The only data available is the number of family members allowed to join refugees in Ireland, which shows that to date around 7,000 family members were permitted to join refugees.¹⁶⁴

Skill level

Ireland has been, up to the onset of economic downturn, a prime example of a modernised, growing economy with great demand for low-skilled workers as well as highly skilled individuals. Accordingly, the majority of immigrants took up positions at the two ends of the labour market, which is in line with international experience.¹⁶⁵ During the 1990's the bulk of immigrants arriving in Ireland were skilled workers. More recently, there has been a substantial influx of immigrants into less-skilled occupations with the arrival of skilled migrants remaining consistent. According to statistics, in 2007 approximately

¹⁵⁶ Department of Trade, *Employment Permit Statistic 2002- 2009*; Trotman, *Evaluation of the Family Reunification and Integration Pilot Project* 2008.

¹⁵⁷ Central Statistic Office, *Foreign Nationals*, 2009. Department of Trade, *Employment Permit Statistics*, 2009.

¹⁵⁸ Central Statistic Office, *Census 2006 - Non-Irish Nationals Living in Ireland*, 2008. Available at www.cso.ie.

¹⁵⁹ Department of Trade, *Employment Permit Statistics 2002-2009*.

¹⁶⁰ Romanian nationals may no longer apply for asylum apart from exceptional cases since their accession to the EU in 2007.

¹⁶¹ Office of the Refugee Application Commissioner, *Statistics of Refugee Determinations and Family Reunifications Applications 2001-2009*. Central Statistics Office, *Non-Irish Nationals Living in Ireland*, 2008.

¹⁶² Higher Education Authority, *Statistics – Student Details 2004-2007*. Available at www.heai.ie.

¹⁶³ International Organisation for Migration, *Managing Migration in Ireland*, 2006. Central Statistics Office, *Census 2006, Principal Demographic Results*.

¹⁶⁴ Office of the Refugee Application Commissioner, *Statistics of Refugee Determinations and Family Reunifications Applications 2001-2009*.

¹⁶⁵ MacÉinri and Walley, *Labour Migration to Ireland*, 2003.

one third of immigrants held high skilled positions while 60% of them were employed in lower skilled occupations which can be illustrated by the fact that the employment growth in labouring and operative positions nearly exclusively and among craft, service workers and sale assistants largely can be ascribed to the arrival of immigrants. Non-Irish nationals filled a significant share of newly created professionals (21%), associate professionals (39%) and managers (62%) occupations chiefly in the education, financial and health sectors.¹⁶⁶ Non-EEA citizens are responsible for a marked share of these newly created highly skilled posts – the majority of which are in the health sector - and the increase in the number of personal service positions mostly in the hospitality sector such as chefs, hotel and restaurant managers.¹⁶⁷

It has been highlighted that immigrants are highly educated group. According to the latest data 48% of immigrants in employment held third level qualifications in 2007, the majority of which are degrees or higher awards.¹⁶⁸ Looking at the group of people outside the European Union (and the United States), a similar proportion of them (46%) hold qualifications awarded by a third level institution. This is in contrast with the proportion of Irish nationals at work with tertiary awards which was 35% in 2007.¹⁶⁹

A survey carried out by the OECD highlighted the fact that Ireland has a higher share of immigrants with third-level qualifications than many other OECD countries and simultaneously that its stock of lower skilled immigrants is among the lowest.¹⁷⁰ According to the FÁS Survey in 2007, almost one fifth of the non-Irish labourers and one-third of foreign-born services workers held tertiary qualifications.¹⁷¹

¹⁶⁶ *National Skills Bulletin 2008.*

¹⁶⁷ *Ibid.* For definition of personal service positions, see www.cso.ie/.

¹⁶⁸ *National Skills Bulletin 2008.*

¹⁶⁹ *Ibid.*

¹⁷⁰ *International Migration Outlook, 2007.*

¹⁷¹ *Nationals Skills Bulletin 2008.*

Chapter 3: Recognition of qualification and skills

3.1 The Skill Gap

The aforementioned leads naturally to the conclusion which was arrived at by Barrett and other commentators to the effect that immigrants are not “fully employed in the sense that their distinctly higher levels of educational attainment are not reflected in a higher level of occupational attainment.”¹⁷² When work permit allocation was on the rise between 1999 and 2003 the majority of the permits were issued to low-skilled occupations. This could have attracted immigrants with falling educational level compared with early arrivals, but data now clearly shows that the people who arrived over had a higher educational profile relative to natives. The occupational discrepancy appeared to be most prevalent among third level degree holders.¹⁷³ The argument to the effect that due to the ‘information effect’ educated immigrants are the first to learn about opportunities and then followed by less educated cohorts seems therefore to be fraught in the Irish context.

On one hand, the so-called occupational gap is emblematic of the first immigration wave internationally: initially many immigrants attempt to get a foothold in the labour market. This was argued by Minns in the Irish context.¹⁷⁴ It was also suggested that immigrants may lack labour market knowledge which is why they enter employment first below their skill level. It can be also tentatively concluded by looking at statistics regarding people’s departure from the labour market in Ireland that a marked group of temporary migrants pursue only short-term goals although the majority of these people are EU nationals.¹⁷⁵ On the other hand, it was observed as part of the ‘Employment in Education research’ that many employers are focused on filling vacancies to run smoothly the organisation and do not consider prior qualification and skills.¹⁷⁶ However, NCCRI noted that if the gap seems to remain stagnant over a long period this development arguably has to be addressed to avoid creating “a wasted opportunity for the Irish labour market which cannot utilise the skills needed and already existing in the economy.”¹⁷⁷

Barrett and Duffy provide, to some degree a different picture to previous findings by pointing out in their analysis that earlier immigrants perform better by narrowing the occupational gap substantially. They illustrated in their model based on statistics gathered over the 1995-2005 period that earlier cohorts of immigrants fared better in terms of securing employment in proportion to their educational attainment.¹⁷⁸ This may be accrued to their integration over a period of time by acquiring English and location specific skills or emigration of less successful immigrants (‘selective out-migration’). It can be argued however that it is indeed a waste of human resources and frustrating for immigrants themselves if they have to wait for five to ten years until they are given the opportunity to secure employment that

¹⁷² Barrett, A., ‘What We Know and What We Do Not about Immigration in Ireland’, in No.6 LRC Review, Issue 1, 2006. Available at: www.lrc.ie. p.14.

¹⁷³ Barrett, A., Bergin, A. and Duffy, D., ‘The Labour Market Characteristics and Labour Market Impacts of Immigrants in Ireland’, *The Economic and Social Review*, Vol. 37, No. 1, Spring, 2006.

¹⁷⁴ Minns, C., 2005, *Immigration Policy and the Skills of Irish Immigrants: Evidence and Implications*, Dublin: The Policy Institute, TCD.

¹⁷⁵ Central Statistic Office, *Foreign Nationals*, 2009.

¹⁷⁶ Employment in Education, 2008.

¹⁷⁷ National Consultative Committee on Racism and Interculturalism, *Submission to the Immigration and Residence in Ireland*, 2005. p 10.

¹⁷⁸ Barrett, A and Duffy, D., ‘A Note on the Educational Profile and Occupational Attainment of Immigrant in Ireland’ in Barrett, A., I. Kearney and Y. McCarthy (eds), *Quarterly Economic Commentary*, Autumn 2006. Dublin: The Economic and Social Research Institute, 2006.

matches their skills. Added to that, as the authors acknowledged themselves, specific groups may not ever overcome barriers that prevent them performing in the labour market at their skill level.

Barrett and Duffy concluded in their following report that the occupational attainment of Ireland's more recent arrivals is lower relative to earlier immigrants.¹⁷⁹ However, they found that this development was unlikely to be the result of increased labour market integration of earlier immigrants over time but a changing national mix in the immigrant inflow into Ireland. Many of the earlier arrivals were UK citizens while immigrants from the new Member States dominated the most recent arrivals and also reported the largest occupational gap.¹⁸⁰ In addition, there appeared to be no lessening over time in the occupational gap experienced by immigrants other than UK immigrants and third-degree holders from the old EU states. They concluded that countries other than UK therefore tend to stand less chance to secure top occupations commensurate with their qualification.

These findings were echoed by the report of the Equality Authority illustrating that immigrants from non-English speaking countries are less likely to enter high level positions.¹⁸¹ However, it can be suggested that many skilled immigrants acquire an advanced level of English over a period of time (despite the inadequate statutory English language provision in Ireland) and therefore English language may not be the only reason for their lack of progression. In this report O'Connell and McGinnity established that it may be implied that, aside from English language competency, cultural similarities and better knowledge of educational systems in English speaking countries or proximity of the regimes in Ireland and those countries may well enhance the opportunities of those people to secure job commensurate with their qualification. This is justified by the experience of professions, where value of educational system within that profession has been recognised in relation to certain, not necessarily English speaking, countries. When initiating recruitment drives among nurses through HSE the Government itself acknowledged the skills of nurses from the Philippines, India and Bangladesh but for instance deemed the standards of nursing education in Nigeria insufficient.¹⁸² Ní Mhurchú noted that professional bodies seemed to recognise qualification from certain countries on the basis that they were more familiar with the education and qualification system in that country.¹⁸³ It must be also acknowledged however that the negligible number of middle-skilled positions created in Ireland since 1996 in general has hindered the integration of skilled immigrants on the basis that these occupations arguably would provide a suitable opportunity for them to adjust to, and demonstrate their skills in, the Irish context prior to securing a top occupation.¹⁸⁴

Therefore, with various reasons contributing to "under-achievement" of immigrants, one of the main reasons identified was the issue of recognising qualification and skills gained outside Ireland. This was attributed to an inability or lack of information on the part of employers to evaluate non-Irish qualifications and experience, their unwillingness to acknowledging foreign credentials and absence of effective accreditation procedure to validate overseas qualifications including the process of registering with professional bodies.

¹⁷⁹ Barrett, A. and Duffy, D., "Are Ireland's Immigrants Integrating into its Labour Market?". Working Paper No.199. Dublin: The Economic and Social Research Institute, 2007.

¹⁸⁰ The authors also evidenced that immigrants from the new Member States generally have a lesser share of third-level degree holders which contributed to the drop in education level among all immigrants between 2004 and 2007. This may also be an additional reason as to why this recent group secure lower level occupation in comparison with earlier arrivals.

¹⁸¹ O'Connell and McGinnity, *Immigrants at work*, 2008.

¹⁸² Quinn and O'Connell, *Conditions of Entry and Residence of Third Country Highly-Skilled Workers in Ireland 2006*, 2007.

¹⁸³ Ní Mhurchú, *Recognition of Professional Qualifications*, 2007.

¹⁸⁴ FÁS, *Labour Market Reviews 2002-2008*. Available at www.fas.ie

Skilled non-EEA workers already living in Ireland

Labour market reviews and skills analysis has long portrayed the need for skilled and highly skilled workers in Ireland which was reflected in policy decisions to target primarily highly-skilled workers outside the EEA. Labour market reviews consistently reported skill shortages since 2002 and even the survey last year confirmed that skill shortages still persisted in several occupations despite the economic downturn.¹⁸⁵ Nevertheless, a multi-agency group established by Integrating Ireland in 2005 concluded in its report that there were highly skilled immigrants in Ireland unable to secure skill-appropriate employment on the basis that professional bodies did not facilitate their registration in an effective manner and “lack flexibility and proactive approach”.¹⁸⁶ These people are already in Ireland. Again, some respondents argued that the haphazard structure for enlisting non-EEA nationals with professional bodies may contribute to the fact that existing mechanisms are devised to deal with primarily Irish (and EU) applicants but ill-equipped to facilitate people coming from outside the EEA.¹⁸⁷ It was also highlighted that financial restraint may hamper some immigrants from commencing their profession in Ireland.¹⁸⁸

FÁS Labour Market Review in 2005 also acknowledged the need to improve the accreditation procedure of overseas qualifications and emphasised that Ireland can benefit from ensuring that “the skills of immigrants are fully utilised”.¹⁸⁹ Data from 2007 shows that almost one third of economically inactive migrants possess tertiary awards including 9,000 non-EU persons. While some of them are students furthering their education, many of them appear to be impeded from participating in the labour market.¹⁹⁰ Regarding the particular group of refugees and people with leave to remain, it seems to be a belief that high skills can only be attached to permit holders and non-economic migrants are without significant credentials.¹⁹¹ That attitude constitutes a great barrier that hinders the recognition of their overseas qualification and skills.

It is therefore seems fair to conclude that the FÁS survey that is conducted among employers and serves as a base for drawing up a list of occupations with skills shortages may not adequately mirror the actual skill-stock available in Ireland.

Case law

Several cases before the Equality Tribunal/Labour Court indicate the acuteness of the issue of recognising overseas qualification. In some cases the body did not rule against the respondent but pointed out to the discrepancies in the process of accreditation of foreign qualification. One example of this is a Korean applicant who had to wait a few years to have his Korean qualification and work experience gained in Germany recognised by the Irish Nursing Board due to the rarity of applications from his country.¹⁹² The Court stated that the Board endeavoured to complete the accreditation process but bureaucracy rendered it difficult to achieve that goal.

¹⁸⁵ FÁS, *Labour Market Reviews 2002-2008. National Skills Bulletin 2008*.

¹⁸⁶ Coughlan et al, *International Students and Professionals in Ireland: An Analysis of Access to Higher Education and Recognition of Professional Qualification*, Dublin: Integrating Ireland, 2005. Available at www.integratingireland.com.

¹⁸⁷ Ibid.

¹⁸⁸ Eyanga, J.P., “Migrant Perspective”, *Presentation at the National Qualification Recognition Conference*, Dublin Castle, 25 April, 2006.

¹⁸⁹ FÁS, *Labour Market Review 2005*, p6.

¹⁹⁰ *National Skills Bulletin 2008*.

¹⁹¹ Trotman, *Evaluation of the Family Reunification and Integration Pilot Project*, 2008.

¹⁹² Equality Tribunal, DEC_E2004-001, *Henning v An Board Altranais*. Available at www.equalitytribunal.ie

The *V.Ilieva and T.Mitov v Irish Society of Chartered Physiotherapists* case before the Labour Court summarizes the two-tier system that exists with many professional bodies by affording different treatment to EU and non-EU applicants. The Complainants applied for membership at the Irish Society of Chartered Physiotherapists and were refused on the ground that they did not possess the required qualifications. This decision was approved by the Court. However, the professional body did not provide the non-EU applicants with the facility of augmenting their qualification by undertaking an adaptation period although this option was nevertheless afforded to EU nationals. The Court therefore outlawed the discriminatory practice that denied non-EU nationals a facility which was available for EU nationals who fell short of the qualification requirements.¹⁹³

Professor Ronaldo Muck famously won a case against Maynooth University when he failed to be awarded a lecturer post for the reason that his experience and qualifications were disregarded. He was refused the post despite the fact that he had thirty years experience in Ireland. The Court ruled in favour of him by underlining the lack of evidence of having objective reasons to discount his qualification and work experience at the interview stage (which were, in fact, highly regarded at the shortlisting stage).¹⁹⁴

3.2 National Qualification Authority of Ireland (NQAI)

‘The Qualification Recognition Service’

The National Qualifications Authority of Ireland (NQAI) was established under the Qualifications (Education and Training) Act 1999, and came into existence in 2001, to develop and maintain a national framework of qualifications as a means of comparing and contrasting the level and standards of awards. The Qualification Recognition service, which started its operation in 2003 when the Authority assumed its role as the Irish National Academic Recognition Information Centre/European National Information Centre, facilitates the recognition of foreign qualifications in Ireland and provides an information service with reference to foreign qualifications systems. This incorporates academic, for study purposes, and professional recognition, for the purpose of employment, but only with regard to unregulated employment since regulated professions have their own competent authorities which controls the entry and practice of the profession. NQAI refers applicants to professional and regulatory bodies where appropriate.

In essence NQAI issues a comparability statement which places the foreign qualification at a particular level on the Irish National Framework of Qualifications (NFQ). The Framework has ten levels designed to measure all learning outcome from the basic to the most advanced level. The main awarding bodies in Ireland that are empowered to issue an award are the State Examination Commission (primary and post-primary education), the Further Education and Training Awards Council, the Higher Education and Training Awards Council, the Universities and Dublin Institute of Technology. The awards of all these bodies are included in the NFQ.

When a foreign qualification is submitted, the Authority examines the aspects of the awards, such as the outcomes associated with it, the syllabus, the duration of the programme and the types of assessment procedures.¹⁹⁵ It always ensures that the international awarding body is recognised in the home country and utilise international databases of awards and other international publication before

¹⁹³ Labour Court, DET No.EDA0519, *V.Ilieva and T.Mitov v Irish Society of Chartered Physiotherapists*. Available at www.labourcourt.ie.

¹⁹⁴ Equality Tribunal, DEC-E2005-030, *Dr. Ronaldo Muck v National University Ireland, Maynooth*. Available at www.equalitytribunal.ie

¹⁹⁵ National Qualifications Authority of Ireland, *National Policy Approach to the Recognition of International Awards in Ireland*, 2004. Available at www.nqai.ie.

arriving at its decision. The Authority in fact states which is the nearest comparable qualification in Ireland to the foreign qualification in question. This statement is of not binding nature however and serves only as advice. Employers are not bound to contact NQAI and the Authority itself is not a position to convince employers on the value of foreign qualification beyond issuing a comparability statement, although it does promote its services among employers. However, a growing number of employers and agencies contact NQAI which illustrates their acknowledgement of the value of the service.

Aside from recognition applications, NQAI also deals with queries in relation to the foreign and Irish qualification and education system. Both types of services are on offer to individuals and groups including prospective employees and employers. Apart from individuals, county councils, vocational educational committees, Garda and some other regulating professions and higher educational institutions featured frequently among applicants. The body witnessed a steady increase in the number of applications per year from 320 in 2003 to 2,027 applications in 2008.¹⁹⁶ In the 2006-2007 period around 40-50% of the applications came from outside the EU with Asia, Africa and the Rest of Europe (which includes the Russian Federation) each accounting for a similar proportion (10-15%) of applications and the 'Americas' representing a smaller share (5%).¹⁹⁷ The service is free of charge but the applicant has to bear the cost of translation. The current average waiting time is 4-6 weeks; however, some applicants can be replied more rapidly while other application can take longer time to complete if specific research on the qualification needs to be undertaken. As part of the application process, the applicant has to disclose the certified photocopy of the qualification and the transcript/mark sheet/list of subjects passed in the original language and the official translation of these documents. However, document submission may be waived for people with refugee status who are not in a position to disclose documents normally required. In this case NQAI carries out a research based on the information it can receive from refugee applicants.

As part of its work, the NQAI has established the educational profile of a growing number of countries and it now provides general information on its website on the comparability of awards from these countries and also processes applications in a fast-track fashion based on this profile (1-2weeks).¹⁹⁸ Several of these countries have complete profiles detailing their education and training system. These countries have accounted for a substantial number of applications before the Authority: at the time of writing the database of complete profiles included China, Russia, Lithuania, Nigeria, Poland, Ukraine and the UK. As a matter of fact the Authority compiled a rough guide to comparing UK and Irish qualifications and a similar work in respect of New Zealand is under way. Furthermore, in 2006 the Chinese and Irish Governments signed an international agreement on the mutual recognition of higher educational awards ranging from sub-degree to doctorate level.

Experience with the National Qualification Authority of Ireland

The work of the Authority has been commended by several stakeholders and it enjoys support from the business and migrant community as well. One particular study has shown that it undertook a difficult, complex task but that during the operation the Service has gone through a learning process itself.¹⁹⁹ A customer satisfaction survey in 2007 found that 90% of the people surveyed stated that the advice is

¹⁹⁶ Byrne, C., 'Demand for foreign qualification increases 800%: a key issue for migrant workers in Ireland', *The National Qualification Recognition Conference*, Dublin, 25 April 2006.

¹⁹⁷ National Qualification Authority of Ireland, *Annual Reports 2006-2007*.

¹⁹⁸ At the time of writing the database included China, France, Germany, Italy, Lithuania, Netherlands, Nigeria, Pakistan, Poland, Romania, Russia, Spain, Sweden, Ukraine, United Kingdom and the United States of America. See www.qualificationsrecognition.ie/recognition/int_qual_database/index.html

¹⁹⁹ Ni Mhurchu, *Recognition of Professional Qualifications*, 2007.

provided in an understandable manner and 54% of them reported that the advice was useful. However, 45 % of them were not satisfied with the service with most of them citing the reason of not having found a job.²⁰⁰ The finding demonstrates that while there may be other reasons for failing to take a position the issue of non-recognition of qualification, to a lesser degree, arguably remains one barrier despite positive contribution of the recognition service by NQAI.

One of the main blocks cited by commentators and recognised by NQAI itself is the lack of knowledge on part of employers about the work of the National Framework of Qualifications. It is of little assistance to disclose a comparability statement to the application form if the employer is not familiar with the National Framework of Qualification to which the foreign award is compared to. It was also argued that the actual statement does not carry weight in the sense that it does not give detailed explanation and it is only an advice.²⁰¹ Submissions have been made to NQAI requesting the issuance of more detailed statement on the content of foreign awards to which the Authority has responded however. The new template contains an explanation of the NFQ level to which a foreign qualification relates and a diagram on the structure of the NFQ system. Since then there has been a reduction in the number of queries received regarding the content of advice; a trend which is likely to reflect a clearer understanding of the information provided in the statement. Secondly, it was acknowledged by the Authority itself that there are still stakeholders unaware of the existence of NQAI although the body itself attempted to promote its services nationwide through its campaign and engages in ongoing communication activities. Nevertheless the growing number of applications demonstrates the increasing awareness regarding the existence of the service.

3.3 Work Experience and Up-skilling

Crucially, as it was also pointed out by commentators, the lack of work experience in Ireland is a serious deficit before a number of employers that may not be offset by the official recognition of qualification. Indeed, the Refugee Information Service reported that one of the biggest obstacles for its clients, who are refugees and legally resident migrants, is the lack of work experience in Ireland.²⁰² Research showed that employers place a huge emphasis on previous work experience when selecting/recruiting candidates.²⁰³ However, foreign work experience is often considered inferior to Irish work history and verification can pose unwanted challenges to employers.²⁰⁴ One option to overcome this barrier is to complete a course followed by a work placement. It must be noted however that there is intense competition for places where immigrants may encounter similar difficulties to finding work. More importantly, the participation in full courses or courses below their skill level even with securing work placement is a waste of resources for skilled immigrants and the course provider.²⁰⁵ Recognition of formal learning and recognition of informal/experiential learning which is a formal acknowledgement of learning through work (both paid and unpaid) and life experience may also contribute to tackling this challenge by providing exemptions from modules or offering advanced entry to appropriate courses which subsequently shortens the duration of the course. It is a recognised concept in Ireland; however, only a handful of higher educational institutions, state agencies and one professional body apply the method in practice.²⁰⁶

In addition, it was stressed that more targeted programmes, namely conversion, up-skilling courses and retraining would go a long way towards adjusting to, and documenting skills in, the Irish context. This

²⁰⁰ National Qualification Authority Ireland, Customer Satisfaction Survey, 2007, Unpublished.

²⁰¹ Trotman, *Evaluation of the Family Reunification and Integration Pilot Project*, 2008.

²⁰² Refugee Information Service, *Report on the Employment Roundtable*, 2008.

²⁰³ *Education in Employment*, 2008.

²⁰⁴ Coughlan et al, *International Students and Professionals in Ireland*, 2005.

²⁰⁵ Ibid.

²⁰⁶ See 'Recognition of Prior Learning' section in this report.

would enhance immigrants' chances to enter employment where they can make use of their skills especially if work placements are part of the course.²⁰⁷ Further education may offer better opportunities than higher education in that regard as some training courses run by FÁS or further education colleges may not be far from being classified as up-skilling course. However, the waiting time for FÁS courses is excessively long. It was stressed that ultimately a more structural shift is needed to cater for up-skilling needs of the migrant population (and the native population as well).²⁰⁸ It was also proposed that courses should include a technical English component.²⁰⁹

The Community Employment scheme provides long-term unemployed with the facility of part time or temporary job placement with voluntary and not-for-profit state organisations. This scheme is open to non-EEA nationals with residency (Stamp4) if they are unemployed for a year and in receipt of social welfare payments. Importantly, refugees do not need to be unemployed for a year to avail of the scheme. The scheme may assist participants with gaining technical and personal skills and establishing contacts.²¹⁰ This option is feasible for long-term unemployed immigrants who do not hold good technical and personal skills but not for highly skilled people. Ideally, they can use it as a stepping stone to some semi-skilled administrative/customer service position. However, its effectiveness in terms of transition to unsubsidised employment was questioned by some commentators who proposed for evaluation and possible amendments of the scheme.²¹¹

3.4 Recognition in Regulated Professions

Professional bodies – legal context

A regulated profession is defined as any profession whose practice is confined to the holder of a qualification or a particular title and governed by law, regulation or administrative procedure. Access to these professions is subject to the approval of the designated body which makes decisions independently on admission to the profession. There are relatively few regulated professions in Ireland in comparison to other EU countries. The approximately 70 occupations include health, engineering, veterinary, auditing, accountant, tax consultant, social work, teaching and architect professions. These bodies have to be applied to directly by foreign applicants wishing to practice these professions in Ireland.

The Employment Equality Act 1998 empowers professional bodies regulating entry to a profession/occupation, to limit admission to the holder of a specific qualification. The EU has adopted several Directives with a goal of easing access to professions for member state nationals. These can be grouped into Sectoral and General Directives. The new EU 36/2005 Directive consolidated all these Directives into one single framework. Many concerns were raised by professional bodies while the Council adopted the Directive; however, they were not heeded by community officials.

The sectoral system provides for automatic recognition of qualification and titles in the listed sector if the person in question holds a qualification listed in the Directive and the minimum training conditions are observed. EC 36/2005 Directive covers, *inter alia*, doctors, general care nurses, dentists, veterinary surgeons, midwives, pharmacists and architects.²¹² The General System enabled practitioners of other professions to have their qualification recognised or to be granted compensatory measures for the

²⁰⁷ Trotman, *Evaluation of the Family Reunification and Integration Pilot Project*, 2008.

²⁰⁸ Nasc, *Integrating the Future*, 2008.

²⁰⁹ *Education in Employment*, 2008.

²¹⁰ See www.fas.ie/en/Communities

²¹¹ Grubb et al, *Activation Policies in Ireland*, 2009.

²¹² *EU Directive 36/2005 replaced the following Directives: 93/16, 77/452, 77/453, 78/686, 77/687, 78/1026, 78/1027, 80/155, 85/432, 85/433, 85/384.*

purpose of evidencing their skills and qualifications such as adaptation period or aptitude test should substantial difference between training of the host country and country of origin be found. As a result of the Directive, EU people enjoy the entitlements to have their award/title recognised in Ireland. If a third country award has been recognised in the EU and the profession has been practised at least for three years in an EU state, the qualification has to be recognised as well.

In accordance with the official interpretation, if someone was qualified in a member state, the EC 36/2005 Directive also applies to non-EU family members of EU citizens who exercise their right to work or establish themselves in another EU state, refugees and people with subsidiary protection and non-EEA citizens with long term residency. Ireland did not adopt the 2003/109/EC Directive on Long-term Residency of Third Country Nationals so the instrument does not apply to that group of people in Ireland. However, people with leave to remain status may benefit from it.

General overview of the current admission policies

It was highlighted by Ní Mhurchú in 2007 that many open questions remained after the EC 36/2005 Directive was adopted without proper consultation with the professional bodies.²¹³ A national forum might have contributed to clarification and harmonisation of procedures provided that it would have brought the professional bodies on board. Professions listed in EC 36/2005 Directive all apply the minimum training requirements of the Directives in respect of non-EU candidates as well. Clearly, there are common elements in their admission procedures but the extent they apply to the regime prescribed in the Directive towards non-EU citizens is not entirely consistent among professions. Evidently, there is more divergence between methods at professions which are not listed explicitly in the Directive. In accordance with the Directive they assess all foreign traded applicants on an individual basis who are not covered by mutual recognition agreements. EU candidates may be entitled for compensatory measures if they fall short of the domestic standards of the profession.

This original group of beneficiaries of the Directive was widened by the Labour Court decision in *V.Ilieva and T.Mitov v Irish Society of Chartered Physiotherapists* which suggested that the scope of Directive, which was transposed into domestic law through statutory instruments for various professions in 2008, is broader than was thought. The decision applied the Directive in respect of non-EU legally resident applicants (non-EU nationals with valid residency stamps) who were trained outside the EU/EEA to grant them the entitlement for compensatory measures. Accordingly, regulatory bodies of professions must give due consideration to this decision if do not want to be challenged on equality grounds. This interpretation seems to prevail before the Department of Health; nevertheless other professional bodies have not indicated to follow that approach yet.

Notably, the majority of professionals who can avail of the option of automatic recognition of their professional qualifications are EU/EEA nationals or citizens of the UK and other former English colonies. Another important obstacle is that exams are still very expensive which can create financial hardship for applicants in the absence of a support structure that can be compounded by the lack of income during preparation for the exams. Furthermore, the duration of verification processes including adaptation period or waiting time for exams are defined in a manner that may result in late recognition which is potentially damaging to non-EEA applicants.²¹⁴ For example, it was shown how positive measures such as adaptation period for nurses can be abused by some employers for the purpose of paying lower wages for non-EEA candidates.²¹⁵ In addition, research also portrayed that non-EEA

²¹³ Ní Mhurchú, *Recognition of Professional Qualifications*, 2007.

²¹⁴ Nasc, *Integrating the Future*, 2008.

²¹⁵ Conroy, P. and A. Brennan, *Migrant Workers and Their Experiences*, Dublin: The Equality Authority, 2003.

applicants may be required to meet higher standards than Irish candidates in respect of specific professions due to difference in registration rules in Ireland and the country in question.²¹⁶ English language competency seems to be a common requirement for non-EU candidates although the IELTS exam is still not a universally applied test. The aforementioned dispersed provision of accessible/affordable English classes may constitute a further barrier for professionals with insufficient level of English.

Lastly, all the regulated professions appear to treat refugees in the same manner as other non-EU applications with the notable exception of Medical Council without paying special consideration to their circumstances such as inadequate documentation on their qualification. That does not reflect the commitment Ireland made by signing the Lisbon Convention that requires the development of special procedures allowing for the assessment of refugees and other displaced persons' qualifications to access higher education or employment activities despite lack of adequate documentation to evidence their credentials.²¹⁷

Profession offering limited entry

Apart from EU and EEA countries which are covered by EU Directives,²¹⁸ the Law Society recognises professional qualification of a lawyer in several US states, New Zealand and one state from Australia as a result of reciprocal agreements. These people may sit a Qualified Lawyer Transfer Test in order to be authorised to practise as a solicitor in Ireland with the exception of solicitors qualified in England, Northern Ireland and Wales who can get direct admission. All the other non-EU applicants have to go through the three-year training process to become qualified unless they have been admitted to the profession in those countries covered by EU law or agreements. This policy is based on the concept that legal systems may differ significantly from Ireland and unless an agreement in place lawyers are not deemed to be prepared to practice in Ireland. Regarding the training process, degrees from countries outside the EU are accepted once they are certified by a practising solicitor. The Chartered Institute of Accountant in Ireland recognised professional qualifications from exclusively those countries it has a reciprocal agreement in place with: Canada, the United States, Australia, New Zealand, South Africa, Zimbabwe and Hong Kong. All other candidates have to go through a training process once their degree is verified. They may receive exemptions from certain subjects if they evidence their knowledge via submitting the syllabus of the course they completed. This policy confined the direct admission to practitioners from a few countries; however it treats EU and non-EU applicants in the same manner. A similar admission policy is in place at the Irish Taxation Institute regarding tax consultants with the notable difference that EU nationals may gain full membership if they were registered in another member state.

Exam/ test for non-EEA citizens

In comparison to previous years, there are signs of improvement among several professional bodies (such as pharmacy or veterinary surgery) with establishing some form of route to non-EEA nationals who were not afforded the facility to enter those professions prior to 2008.²¹⁹ Both professions provide

²¹⁶ Denayer notes that American speech and language therapists are required to meet higher standards of qualifications in order to gain registration in their country and subsequently in Ireland than Irish graduates. Nasc, *Integrating the Future*, 2008. p.34.

²¹⁷ Ibid. *Lisbon Convention on the Recognition of Qualifications Concerning Higher Education in the European Region* 2007.

²¹⁸ Directives 89/48/EEC and 95/05/EC. Directive 36/2005 EC does not apply for lawyers.

²¹⁹ Pharmacy Act 2007 and S.I. No. 494 of 2008 (Pharmaceutical Society of Ireland (Registration Rules) 2008); Veterinary Practice Act 2005 established the Veterinary Council of Ireland and set out the regulations for registration.

for exams now for those applicants who do not qualify under EU rules, that is to say, who have gained awards outside the EU/EEA. Applicant must observe the minimum training conditions contained in respective Articles of EC 36/2005 Directive including possessing explicitly mentioned skills.²²⁰ Pharmacist applicants may be asked to evidence their English language competency while each applicant before the Veterinary Council is required to secure a minimum score at the IELTS exam. The next part of the process for veterinary surgeon candidates is to sit a theoretical exam consisting of two parts and complete a clinical competency test where they are required to perform various actions. The Guide for applicants contains sample questions as well as literature to assist non-EEA applicants. In the same vein, the Explanatory Booklet for pharmacist candidates gives a detailed description of the procedure and the required documents to be submitted. This without a doubt can be described as a sea-change as prior to the new regimes the two professions were virtually inaccessible to professionals trained outside the EEA.²²¹

By the same token, the Dentist Council offer the facility of examination for dentists applying for full registration that are graduated outside the EU/EEA.²²² Candidates similarly have to observe the minimum training conditions and obtain the necessary competencies.²²³ They also have to demonstrate their competency of communicating in English. Upon fulfilling these requirements they are permitted to sit a special examination that covers sciences relevant to dentistry, practical test and clinical assessment of a patient.

In March 2009 the Medical Council enacted a new set of regulations for applicants that establishes four registers: trainee specialist, general division, specialist division and visiting EEA practitioners.²²⁴ All non-EU/EEA applicants must achieve a minimum score at IELTS exam at the time of submitting an application. They are also required to submit their degree, an internship certificate/certificate of experience and certificate of good standing. Medical practitioners who have graduated outside the EU may apply for registration if the medical school is recognised in the WHO or FAIMER medical directory.²²⁵ The Medical Council adopted a flexible interpretation of internship recognising differences in various jurisdictions.²²⁶ In addition, they also have to prove their full registration with the relevant authority (termed as certificate of professional status). Prior to the new regulations, non-EEA graduates trained outside the EU may have only registered via temporary register system which was conditional upon passing a test. The temporary registration enabled them to participate in training and after completion of the training to apply for full registration. The temporary registration ceased and in the new system non-EU graduates who wished to apply for an identifiable postgraduate training post must apply at the trainee specialist register. They also have to pass a pre-registration test that consists of theoretical test and clinical assessment. Those applicants who have received their basic medical training in an EU state that complies with the minimum training requirements contained in EC 36/2005

²²⁰ Pharmacists must complete a four years full-time course with at least six month apprenticeship for pharmacists and five years full-time course is required for veterinary surgeons. Article 44 and Article 38 of Directive EC 36/2005, respectively.

²²¹ See www.vci.ie.

²²² See www.dentalcouncil.ie.

²²³ They are required to complete a five year full-time course containing theoretical and practical instruction along with appropriate training under Article 34 of Directive EC 36/2005. See also S. I. No. 263 of 2008 (Recognition of the Professional Qualifications of Dentists Regulation).

²²⁴ Medical Practitioner Act 2007 sets out the new regulation and gives effect to Directives EC 36/2005 and EC/100/2006. See www.medicalcouncil.ie/register.

²²⁵ Non-EEA applicants whose qualification is not listed are assessed on an individual basis. Nevertheless, it is unlikely they will be approved for the register.

²²⁶ According to regulations, an internship may last for minimum twelve months with at least three months spent in medical in general and three months surgery. The Council, however, is authorised to make exemptions in exceptional circumstances.

Directive are exempt from the assessment.²²⁷ According to the new rules, non-EU medical practitioners may also apply for general registration which authorises them to practice as general practitioners but prohibits them from partaking in specialist training or acting falsely as specialist. Apart from the test described above, non-EEA candidates' postgraduate education, training, qualification and experience are assessed by a postgraduate training body against Irish/EU standards of competencies.

Non-EEA applicants who have completed their medical specialist training and wishes to practice as specialist may also enlist with the Specialist Division. Firstly, this facility is open to non-EEA practitioners who are recognised by a competent authority in a Member State and have lawfully practised medicine for a minimum period of three years. Alternatively, specialists who have received their training outside the EU may also apply for registration but must provide evidence through additional documentation that they have completed an approved, structured training that can be regarded as equivalent to the Irish Certificate of Satisfactory Completion of Specialist Training. Similarly to general registration, a relevant postgraduate body carries out an in-depth assessment of their postgraduate education, training, qualification and experience.

Engineering Ireland is the major professional body that represent engineers and ensures the title of engineer is allocated to suitably qualified individuals. It is the partner of several mutual recognition agreements and it provides full recognition of qualifications/titles from the partner countries and the members of the EU. The authority has a general regime in place for candidates from all the countries which are not covered under the mutual recognition agreements as well as for those who do not possess the prescribed formal qualification in engineering.²²⁸ People are offered first the academic interview which is aimed at testing thoroughly the applicant's academic qualification. They subsequently either gain direct entry to membership or have to take one of the experiential routes to evidence their skills and competencies.

Professions not covered by the Sectoral System: a more equal admission policy

In contrast to that, the Department of Health, which acts a professional body to many health professions including psychologist, occupational therapist, dietician and speech and language therapist, and the National Social Work Qualification Board does assess the qualification and professional experience of non-EEA applicants in the same manner as (non-Irish) EEA candidates. Since the Directive does not provide for automatic recognition in the case of health and social care professions every application is assessed on an individual basis. Provided that they appear to meet the standards of the Irish education, training and qualification of the occupation in question the validation/accreditation authorise them to practice without the need to pass an examination.²²⁹ Their qualification must be at least equivalent to the required training in Ireland in terms of duration and outcome where the latter one usually equates to presenting a degree in the given field. Therefore, applicants have to provide detailed documentation on their studies, such as transcript of the examination subjects and syllabus of the course taken, and professional experience (confirmation letter and references) as well proof of their entitlement to practice the profession in the country they were qualified in which usually takes form of register, licence or award.

²²⁷ Six years of study provided or supervised by university that led to acquisition of specific skills. Article 24EC 36/2005 Directive

²²⁸ The Washington Accord (1988), which was signed by Ireland, Australia, New Zealand, the UK, Canada, the United States, South Africa, Hong Kong, Singapore and Japan provides for automatic recognition of engineering degree programmes between the signatory countries. There are other agreements in place regarding engineering technology. See www.engineersireland.ie.

²²⁹ See www.dohc.ie and <http://www.nqswb.ie>

The Department of Health took note of the Labour Court decision in *Ilieva & Mitov vs Labour Court* and thus affords the same compensatory measures for EEA and non-EEA legally resident migrants who fall short of the required standards. In fact non-EU nationals are required to possess a valid residency stamp to avail of that option. Non-EU candidates applying for a position from outside Ireland are not afforded this facility. The National Social Work Qualification Board also declared a flexible approach by giving opportunity to all candidates whose education just fell short of the required length (for instance one year less undergraduate course.)

Professions that give concessions for non-EEA applicants

Non-EEA nurses are assessed on an individual basis against the EU minimum requirements in terms of nature, duration and content of their training where required skills are further detailed by the Framework of Five Domains of Competencies for Entry to the Registry of Nurses.²³⁰ They must establish themselves as a first-level nurse, hold a registration with the relevant authority and possess a Certificate of Good Standing. They are also required to pass IELTS test unless English is their first/primary language. Non-EEA nurses have played a key role in the Irish health system and the Irish Nursing Board has thus been very accommodating towards non-EU applicants giving full consideration to prior experience and also offering compensatory measures for candidates demonstrating a theoretical or practical deficit in some areas. The compensatory measure entails the option of completing one educational component or undergoing an adaptation period of supervised practice lasting from six to twelve weeks with the possibility of participating in further education and training. In addition, the outcome of the original application as well as the outcome of the adaptation period can be appealed and the Board provides detailed information on the appeal procedure.

Since 2008 the regime at the Pharmacist Society also offers an adaptation period should the standards of training and qualification of the applicant be deemed to be lower than necessary during the equivalence exam.²³¹ After successful completion of the adaptation period candidates have to sit and pass the Professional Registration Exam that is equivalent to the one that home-trained candidates have to take.

The Department of Education may authorise teachers qualified outside the State to take up the position of primary school teacher in special classes where Irish language is not a requirement. Since 2000 teachers qualified outside the EU may also be granted the entitlement to teach in mainstream classes for a provisional period of five year by the end of which they must pass the Irish language exam. Applicants qualified outside Ireland have to present detailed evidence of their study and registration as a teacher in the country they practiced their profession. Upon the successful completion of Irish language exam they will gain full recognition. To date, only a small number of non-Irish primary school teachers have practised in Ireland.²³² In contrast, there are numerous professionals in the higher education sector who are non-EU nationals.²³³

The profession of architect became regulated only in 2007 by way of the Building Control Act 2007. The admission system operated by the Royal Institute of the Architects of Ireland is one of the most

²³⁰ Article 31 of EC 36/2005 prescribes that the training shall comprise of at least three years of study of theoretical and clinical training leading to adequate knowledge of relevant sciences, nature and ethics of the profession and adequate clinical experience. See also S.I. No. 164 of 2008 (Recognition of Professional Qualifications of Nurses and Midwives Regulations, 2008).

²³¹ See www.pharmaceuticalsociety.ie.

²³² *National Skill Bulletin 2008*.

²³³ *CSO, 2009*.

diverse regimes that provides for various routes for non-EEA nationals.²³⁴ All non-EU candidates are required to possess an accredited non-EU qualification that adheres to the EU standards of minimum training requirements stipulated in the Directive and thus have to submit their degree, transcript of their final exam and syllabus of the course.²³⁵ Additionally, they either have to pass the postgraduate exam at the Royal Institute of Architect of Ireland or University College Dublin, or alternatively, non-EU graduates can register if they have completed a professional practice exam elsewhere and can prove at least two years of approved post-graduate practical experience under the direction of an architect. The last option for non-EU graduates is to evidence seven or more years of post-graduate professional experience. The body has been very helpful to non-EEA candidates who show some educational deficit and run intensive courses for them or refer them to appropriate courses at UCD.

The new regulations at the Medical Council provides for a waiver for refugees who are exempt to produce all the necessary documentation required. They must endeavour to provide alternative evidence to satisfy the Medical Council that their education, training, qualification and professional standing are appropriate to become eligible for trainee specialist registration.

3.5 Recognition of Prior Learning

Concept and policy in Ireland

In Ireland the term Recognition of Prior Learning (RPL) is used to describe a process of assessment and acknowledgement of previous learning which may consist of experiential/informal learning, and learning achieved outside and within the formal education system as well.²³⁶ The general purpose of applying the concept of RPL is to grant entry to a study programme, afford credit towards an award, exempt applicants from some requirements or exceptionally issue a full award. The so-called 'summative approach' is utilised in Ireland while the 'formative approach' is used only marginally (Hagans at al, 2008). This latter one refers to applying the method of RPL for personal and career development. According to the policies of most further/higher education providers in Ireland, RPL consists of building a portfolio/collection of evidence with the help of a mentor. The applicant's knowledge, skills and competence that have been assessed from this portfolio are conducted against the learning outcome of the award by one or a panel of assessors. In practice RPL is far from being fully developed and the provision among providers is uneven. While the various awarding bodies and increasing number of providers have a policy in place regarding RPL providers do not necessarily have the resources to adequately facilitate the process. Another concern identified by a research is that the process is not tailored to foreign qualification. This necessitates the adjustment of the quality assurance policy of providers in that regard.²³⁷

Good practice

It is notable that Ireland is one of the few countries where full award may be granted via RPL. This is a unique opportunity that could be used more widely for people lacking appropriate documentation to evidence their skills and qualification. Failte Ireland offers the facility of RPL to persons who obtained skills in cookery and bar management informally at work outside the formal education system to

²³⁴ See www.riai.ie.

²³⁵ Article 46 in EU 36/2005 Directive states that four years full-time study with university level examination at the end is required that results in the acquisition of specific skills.

²³⁶ National Qualification Authority of Ireland, *National Principles and Operational Guidelines for the Recognition of Prior Learning*, 2005. Available at www.nfq.ie.

²³⁷ *Education in Employment*, 2008.

receive a full award. The body has a proven history of providing this option to applicants and also resources (mentor and assessors) are available to implement the process.²³⁸

FÁS uses the term ‘Accreditation of Prior Learning’ which allows for formal recognition of skills and knowledge that people already possess. The state agency in conjunction with the Construction Industry Federation have introduced the Construction Skills Certification Scheme to assist the construction sector in complying with the new minimum standards of the industry by documenting the knowledge, skills and competence of workers who lack formal qualification. The method has been utilised in relation to other industries on a pilot basis but it has not been developed into mainstream service except for the apprenticeship training. Upon evidencing sufficient competencies, both Irish and non-Irish trained applicants may be exempted from the first five of the seven phases of the apprenticeship structure but not from the last two (10 weeks classroom and three months on the job training). They are required to register with an employer for these last two phases which may constitute a block for immigrants trained outside Ireland in the process of accreditation. Nevertheless, at least they are provided with advanced entry to the apprenticeship training. Ní Mhurchú observed while exploring the admission practices of the trade of electrician that non-Irish trained applicants are assessed on a casual manner through practical tasks which may be accompanied with contacting the regulatory body in the country of origin of the applicants.²³⁹ According to the experience of FÁS or NQAI, they do not receive large number of applications from individuals or bodies in respect of accreditation of foreign craft certificates. Lack of time and resources as well as lack of awareness were cited as main reasons in the research.²⁴⁰ FÁS frontline service providers do not show to be proactive to promote this option, either.

Cork Institute of Technology (CIT) and Dublin Institute of Technology (DIT) stand out among higher education providers on the basis that the institutes have an exemplary institute-wide support mechanism in place with dedicated resources available for RPL. This includes a co-ordinator of prior learning, a mentor who assists in developing a portfolio, and assessment officer who with the co-ordinator consider the previous learning against the learning outcomes of the course. The regimes embrace both certified and experiential learning and cite a wide range of evidence that can be used to evidence the latter one: records on the job training, certificates of attendances, diaries (non-formal learning); copy of work projects, published materials, written reports, photographs and digital media, designs (samples of work); report on voluntary work, testimonials, references and HR records (evaluations); job profiles and tasks (work history). Upon positive outcome CIT provide for exemptions from subjects/modules.²⁴¹ DIT can also exempt candidates from modules/subject but it may also afford the successful applicants with the option of advanced entry to the programme or exceptionally, with the full award.²⁴²

The Dublin Institute of Technology was a partner in the Valuing Learning from Experience (so-called ‘Valex’) project that devised a model to be used by experienced practitioners who did not have a professional qualification in their field of practice. The model which entailed a learning and personal development plan was targeted at learners likely to suffer from social inclusion including the unemployed, people with no formal qualification and refugees.²⁴³

²³⁸ See www.failteireland.ie

²³⁹ Ní Mhurchú, *Recognition of Professional Qualification*, 2007.

²⁴⁰ *Ibid.*

²⁴¹ See www.cit.ie.

²⁴² See www.dit.ie.

²⁴³ See www.valex-apel.com

As described above, Engineering Ireland offers experimental routes for those applicants who fall short of the required academic standards in Ireland in the academic interview. The Experimental Learning Route to a Grade consists of writing a thesis and presentation of this report for an interview. This is normally offered to people whose qualification is engineering related (for instance physics) and have substantial knowledge in a branch of engineering. The Experimental Learning Route to a Title requires the candidate to produce a report under the supervision of a mentor to evidence their experience which is followed by an oral examination based on the report. This option is normally provided for those who do not have formal engineering award but have gained significant expertise in an area. These facilities are unique in comparison to other professional bodies for the reason that they afford applicants the option of evidencing their competence in the absence of prescribed formal qualification irrespective of their nationality or where they have gained experience. These routes are also available for those who hold formal engineering qualifications but showed some educational deficit against the Irish standards of engineering qualification.

Lastly, specialists trained and registered outside the EU who apply for the specialist register at the Medical Council have to follow sets of rules that can be seen as example of recognition of prior learning. Aside from their degree and registration as specialist in their country of origin, they are required to provide further evidence of their work experience: training records, caseload, assessment of colleagues/trainers (medical skills), postgraduate diploma, publication (further education and research), lecture records, management roles (communication skills), peer review and clinical audit (third party feedback). On one hand it is an additional burden on non-EU applicants, but on the other hand they are provided with the facility to evidence their competencies and gain direct entry to the position of specialist.

It has been proposed that a shared repository of cases studies to inform practice would go a long way to utilising wider implementation of RPL. The 'Education in Employment' study also emphasises the need for stronger collaboration between employers, education and training providers.²⁴⁴

²⁴⁴ *Education in Employment*, 2008.

Chapter 4: Diversity management

4.1 Framework in Ireland

It is evident that the huge influx of immigrants in Ireland has resulted in a far more diverse workplace than before. As was mentioned in previous sections, not only is 16% of the labour force made up of non-Irish nationals but they are present in every sector of the economy. The benefits to be gained from the new pool of labour have often been stressed and it has gradually been acknowledged that managing a diverse workforce is crucial to maximising those benefits and tackling underlying challenges. One of the five objectives of the National Action Plan Against Racism 2005-2008 was to recognise diversity and formulate awareness-raising strategies²⁴⁵ Anti-racism Workplace Week and Intercultural and Anti-racism Week have played a pivotal role in implementing the National Plan Against Racism through bringing many positive initiatives to accommodate diversity and tackle racism from dissemination of information to conferences and social events. The main goal of these regular events is to embed initiatives into mainstream policies of the organisations and changing attitudes in the long-term. Although many workplaces have been involved in the events, the objective of mainstreaming initiatives into everyday management as well as the expected outcomes of NPAR is somewhat far from being realised.²⁴⁶ The absence of sanctions and statutory provisions weakened the potential of the measure which did not receive substantial statutory resources necessary for implementing comprehensive initiatives. Nonetheless even the further implementation of NPAR would have brought benefit gradually as opposed to the current situation which is characterised by lack of indicators since the measure elapsed in 2008.

4.2 Bigger Organisations

A survey commissioned by the Equality Authority among medium to large manufacturing and service companies in an attempt to promote and monitors equality in the workplace and in society in general, is a good indicator of recent trends regarding diversity management and equality policy.²⁴⁷ The survey found that indigenous companies tend to have more diverse workforce than multinationals and these are concentrated in the financial, retail and the construction sector. However, they are less likely to have adopted diversity and equality strategies and if adopted, to integrate diversity and equality policies into the overall corporate strategy. It was also shown that companies with large and unionised workforce are more inclined to adopt a Diversity and Equality Strategy. Conversely, many of the businesses with recently gained diversity are characterised with low level of unionisation and absence of Diversity and Equality systems. While many of the companies surveyed (85%) reported having formal written policies on equal opportunities a markedly fewer firms (40%) adopted a written diversity policy or appointed a designated manager to champion equality and diversity in the organisation (38%). In line with those findings local research evidenced the absence of separate anti-discrimination policy at companies which are more likely to be part of the equality policy.²⁴⁸ In addition, every fourth employee in the national survey received equality/diversity training with majority of them working for large multinationals. Lastly, monitoring ethnic background during the recruitment and promotion process was shown to be rare among companies surveyed. The surveyors

²⁴⁵ *National Action Plan Against Racism 2005-2008* (NPAR 2005).

²⁴⁶ See www.equality.ie

²⁴⁷ Flood et al, *New Models of High Performance Work Systems*, 2008. The research was jointly commissioned by the National Centre for Partnership and Performance and the Equality Authority, and was carried out during 2006 by a research consortium from University of Limerick and University of Kansas. Detailed survey data was gathered from a total of 132 companies, using two survey instruments targeting both the CEO (or MD) and the HR director in the sample companies.

²⁴⁸ Dunbar et al, *Evaluating the Barriers*, 2008.

also brought strong evidence of the positive impact of diversity and equality systems in terms of labour productivity, innovation and low turnover among staff.²⁴⁹

It is safe to say that many of the bigger organisations in Ireland have put in place diversity or at a minimum level equality policies in place and issued equality/diversity statements. Positive initiatives can be found with various organisations; nevertheless the lack of infrastructure to promote equality has been identified by the Equality Authority as a major concern. It underlined that “organisational policies, procedures and practices are required to reflect on equality competency for organisations to promote full equality *in practice*, to make adjustment for the practical implication of diversity and to prevent and combat discrimination [emphasis added].”²⁵⁰

4.3 Small and Medium Businesses

Small and medium size businesses seem to fare better in terms of recruiting marginalised migrant (and other) groups of society according to a local research in Dublin.²⁵¹ This can probably be attributed to their proximity to these groups and less formal recruitment procedure in place. Small and medium sized enterprises, however, appear to lack equality/diversity policy as a result of meagre resources and inadequate awareness which was shown by a local research in one area of Dublin.²⁵² Their need for training and policy development is evident. However, positive initiatives have been taken by some of the individual businesses and the Small Firm Association itself encourages and promotes these initiatives among its members. Some companies receiving grants from the Equality Authority convened focus groups, carried out trainings and developed an equality policy that can be mainstreamed in every aspects of the organisation.²⁵³

The National Framework Committee for Equal Opportunities at the level of Enterprise is a social partnership committee that develops and disseminates practical support for constructing an equality infrastructure at Small and Medium Size enterprises. The grant scheme that it operates entails a consultancy support for any individual enterprise to devise an equality policy and set out practical steps to enhance equality in the workplace.²⁵⁴ Notably, IBEC, the Small Firms Association, the Construction Industry Federation, Chambers Ireland, the Office of Minister for Integration and the Equality Authority jointly devised an action strategy for integrated workplaces in 2008 that assign tasks to all participants. The core of the strategy is the commitment made by the various membership organisations to assist their members with information on good practice, practical training and resource material to accommodate cultural and linguistic diversity. It remains to be seen as to how this action plan will be implemented in the workplace within an economic environment characterised by increased competition for remaining positions.

4.4 Proactive Approach to Facilitate Recruitment of Non-Irish Nationals

A study investigating the experience of Irish and foreign-trained nurses in the Irish health care system found in 2004 that the recruitment process was inadequate to prepare the integration of non-Irish nurses at the workplace as it did not assess adequately their professionals and language competency, did not provide proper orientation and Irish nurses were not trained as to how to deal with cultural and training differences. It was pointed out that better screening methods and longer induction programmes were

²⁴⁹ Ibid.

²⁵⁰ Equality Authority, *Annual Report 2006*. Dublin: Equality Authority p.11. Available at www.equality.ie

²⁵¹ Burtenshaw Kenny & Associates, *A Study of Diversity and Equality in Blanchardstown, Executive Summary*, Dublin: Blanchardstown Employment and Diversity Project, 2003.

²⁵² Ibid.

²⁵³ Strumble, O., “Equality in practice”, *Equality News Winter*, 2004. Available at www.equality.ie.

²⁵⁴ See www.equality.ie

key elements to the betterment of the recruitment process. The adoption of competence and assessment tool for Nurses by the Irish Nursing Board was described as a step in the right direction but one which has to be complemented with deployment of practical support to facilitate cross-cultural dialogue.²⁵⁵

The Equality Tribunal and the Labour Court also stressed the need for facilitating non-national workers' understanding of the regulations and practices in the workplace that places the duty of positive action on employers. It explicitly mentioned the need for proper induction courses and resources to be made available to spell out actions targeted at foreign-born employees.²⁵⁶ "Employers in certain circumstances may have to take positive steps to ensure non-discrimination."²⁵⁷ Employers are encouraged but not obliged to take positive action to promote equality under the pertaining legislation which was portrayed as deficit of the current equality framework.²⁵⁸ The Court judgment suggested that in some cases employers may *have to* take positive action to afford equal treatment to non-Irish workers in some cases. The Irish system is nevertheless far from the regime operating in the UK where public or private organisations are "audited for equality proofing" and obliged to develop indicators which can subsequently be measured.²⁵⁹

²⁵⁵ Mc Adam et al, "The Experiences of National and Non-national Nurses in the Health Care System", 2004.

²⁵⁶ The Labour Court, Determination, ED/01/27; The Equality Tribunal, DEC-E2006-050; The Labour Court Determination, No.EED08, 'Campbell Catering Ltd v Aderonke Rasaq'.

²⁵⁷ Equality Authority, *Annual Report 2004*, p.12.

²⁵⁸ Equality Coalition, *Submission on the Equality Bill*, 2004. Available at www.pavepoint.ie.

²⁵⁹ MacÉinrí, P. "The Challenge of Migrant Integration in Ireland", 2007, p.86.

Chapter 5: Conclusions

Ireland has witnessed a significant change in its labour market since the mid 1990's when immigrants started arriving in large numbers. In parallel with rapid economic growth its labour force expanded remarkably drawing in many new entrants into the labour market. Returning Irish emigrants and enhanced female participation contributed to the expansion of the workforce, but non-Irish nationals still accounted for a significant share of newly created positions between 1996 and 2008.²⁶⁰ Ireland is in a unique position due to the scale of recent immigration: both the number and diversity of foreign-born nationals has changed dramatically in this period. Not only 16% of its workforce or 10% of the population are non-Irish nationals but Ireland as a country has received 188 nationalities by 2006.²⁶¹ Approximately a quarter of its migrant workforce has arrived from outside Europe Union which illustrates that a substantial number of non-EU nationals have populated Irish workplaces.

By and large, since 1996 the policy framework has lagged behind labour market developments. Ireland has pursued a very liberal policy which largely left it to the stakeholders within the labour market to negotiate their way through the system. There is variety between challenges faced by various non-EEA citizens according to their nationality, status and the sector in which they have been employed. Nonetheless many non-EU nationals irrespective of their status have worked in positions where they cannot use their technical skills and qualification. Although they provide essential services for the economy where their flexibility, endurance and commitment are highly appreciated by employers (and regrettably in several cases exploited²⁶²) many of them are denied upward mobility in the labour market. The majority of those who secured skilled positions have arrived from a small number of countries through the working visa/authorisation and Green Card system and work mainly as nurses, chefs, restaurant managers, accountants and IT specialists. At first instance, non-EEA nationals from English speaking countries were shown to be more likely to secure top occupations and progress upward in the labour market. However, research and statistics illustrate that some nationality groups who are from other countries may enter skilled jobs as employers or professional/regulatory bodies have become accustomed to applicants from those countries and are more familiar with their skills and qualifications.

Ireland has greatly benefited from migration and non-EU nationals have played an important role in that process. However, Ireland has not initiated a comprehensive dialogue as to how to accommodate these new communities in Ireland. There is absence of any detailed strategy by the Irish government with regard to migration in general but also in the context of the labour market. This report has shown that many promising initiatives have been put in place in recent years. However they were isolated actions and were rarely accompanied with a comprehensive consultation on a higher level or promoted effectively. The recent positive changes in the admission policies of professional bodies provide new opportunities for non-EU nationals who were previously denied entry to skilled positions. Similarly, a number of employers have put in place policies and training to deal with challenges arising from a diverse workplace. However it is still too early to evaluate the impact of some of those changes. Ultimately, the real impact largely depends on the practical approach employers and regulatory bodies take while applying policies. Furthermore, recently worsening conditions in the labour market have narrowed the opportunities for all participants including non-EU citizens and enhanced competition in the workplace.

²⁶⁰ FÁS, *Annual Report*, 2008.

²⁶¹ Although ten countries account for 82% of the immigrant population, it is nevertheless a remarkable diversity. Central Statistic Office, *Census 2006 - Non-Irish Nationals Living in Ireland*, 2008. Available at www.cso.ie.

²⁶² Migrant Rights Centre Ireland, *Exploitation in Ireland's Restaurant Industry*, 2008.

Employment of immigrants can be described as a learning process for employers, immigrants, employment service providers, recruitment agencies and regulatory bodies, which needs to be supported through dialogue and assistance. The establishment of the Qualification Recognition service by the National Qualification Authority of Ireland encapsulates how a comprehensive facilitation service nationwide may contribute to better integration of immigrants in the labour market. A prime example of the rare collaborative approach is the Garda recruitment initiative which has aimed at hiring applicants into the police service from different ethnic groups.²⁶³ The Garda Síochána has actively cooperated with the National Qualification Authority of Ireland while assessing the credentials of candidates.²⁶⁴ However, this report also illustrated that the recognition service along with the National Framework of Qualification needs to be promoted and explained more widely to private employers, a task which NQAI cannot carry out by itself.

It was acknowledged by the Government in its policy statement that the migrant population are highly educated with valuable skills.²⁶⁵ Nonetheless there has not been a real attempt outside the group of NGO's working in this area to investigate why certain newly arrived ethnic groups cannot secure employment, despite many of them holding valuable skills and the aforementioned recognition service being in place, and how best to address this issue. Neither has there been any detailed strategy formed in relation to vulnerable groups within society, such as refugees and low-paid work permit holders, who encounter serious challenges when searching for employment or upward mobility in the labour market.²⁶⁶ It is unfortunate that employers and/or regulatory bodies do not share their experiences in relation to non-EU nationals including best practice with regard to assessing qualification and skills and accommodating diversity – a dialogue that the Government should facilitate. Unfortunately, the current economic downturn and related shortfall in the national budget make it unlikely that resources would be made available for implementing these types of initiatives. Indeed, recently organisations and forums with specific roles in supporting the migrant population have either been abolished, had their budgets cut or have not been established.²⁶⁷ The Office of Minister for Integration did not escape budget cutbacks which further delays the establishment of the Task Force on Integration as well as other initiatives. Furthermore, the restrictions in respect of work permit holders already residing in Ireland further indicates the trend of a restrictive labour market policy. Moreover, the Immigration and Residency Bill, if enacted in its current form, will hamper the process of integration by allowing for an immigration regime where (at least some group of) migrants' rights and entitlements to residency, marriage and family reunification will be either subject to the discretion of the Minister for Justice or regulated through secondary legislation.²⁶⁸ It is of real concern that in the long run these developments will have a negative impact on the labour market as well as the society as a whole.

Overall, proper consultation with various stakeholders is essential to the proper management of migration.²⁶⁹ Economic hardship renders it all the more important to initiate a dialogue and it is timely that the Minister for Integration should fulfil the commitment made in regard to such partnership approaches. Local forums that brought together stakeholders in the area of employment and education

²⁶³ Garda Síochána is the official name of the police force in Ireland.

²⁶⁴ National Qualification Authority of Ireland, *Annual Report 2008*.

²⁶⁵ 'Migration Nation – Statement on Integration Strategy and Diversity Management', 2008.

²⁶⁶ This also includes disadvantaged groups in the native population. National Economic and Social Forum, *Creating a More Inclusive Labour Market*, 2006.

²⁶⁷ Zappone, K. & Farrel, M., 'Cutbacks in the Area of Human Rights are Excessive and Unfair', *Irish Times*, 10 February, 2009. Available at www.irishtimes.com.

²⁶⁸ Integrating Ireland et al, *Immigration, Residence and Protection Bill*, 2008.

²⁶⁹ International Organisation for Migration, *Managing Migration in Ireland*, 2006.

have been shown to be successful.²⁷⁰ Nationwide dialogue with all stakeholders can be seen as key to an inclusive labour market. Existing options from up-skilling and English courses to the facility of recognition of prior learning should be reviewed and enhanced while new programmes such as conversion courses or mentoring system should be piloted.²⁷¹ Commentators also called for a specific forum to be convened with the participation of the business community, professional bodies, policy makers, academia and the NQAI to facilitate improved communication in the field of qualification recognitions in respect of regulated professions and to a possible extent also unregulated occupations²⁷² Thirdly, while preventing any mistreatment should remain the primary concern, it is worth re-considering as to how positive actions with the goal of facilitating the integration of immigrants at the workplace could be promoted more effectively and best practices be shared to that effect.. Fourthly, it was also put forward that skilled migrants should be encouraged and supported more widely with setting up their own enterprise.²⁷³ Ultimately a change in the Irish Government's position is urged so that it places emphasis on its policy of retraining and furthering the skills that non-EEA and other migrants have brought to the Irish labour market by encouraging local initiatives and adjusting its employment support services to this effect as part of a nationwide policy. This will require re-visiting the concept of a "broader skill mix" formerly promoted by IBEC (the Irish Business and Employment Congress) where not only green card holders with familiar qualifications but also work permit holders, students, and refugees and other Stamp4 holders with a broad range of skills are seen as assets to the country who can contribute to the recovery of the economy.²⁷⁴ Most importantly, a fresh approach is needed in order to acknowledge the permanent presence of non-EEA migrants in Ireland who have lived here for several years, and to form subsequent policies that facilitate and do not undermine their long-term commitment to this country.

²⁷⁰ Trotman, *Evaluation of the Family Reunification and Integration Pilot Project*, 2008. Nasc, *Integrating the Future*, 2008.

²⁷¹ *Education in Employment*, 2008.

²⁷² Ní Mhurchú emphasises the importance of creating improved communication structures in respect of regulated professions on the basis that professional bodies are "left out of the decision-making process on the issue of overseas qualification recognition." Ní Mhurchú, A., *Recognition of Professional Qualifications*, 2007, p.72.

²⁷³ Nasc, *Integrating the Future*, 2008.

²⁷⁴ Irish Business and Employers Congress, *Immigration and Residency in Ireland*, 2005. p.13.

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Part 2: Field research

Immigrant groups

Methodology and profile of immigrants

The following represents the findings of two focus group discussions convened in two locations in Ireland during May 2009. The discussions were held in accordance with the guidelines laid out by the co-ordinating organisation of the project (IPRS)²⁷⁵. The major questions asked during the focus group exercise were devised by the project partners.

The aim of the focus groups discussion was to reveal the view and experience of non-EU skilled nationals in regard to their access to the Irish labour market with particular emphasis on the challenges faced by them in terms of entering skill-appropriate employment.

The participants were drawn with a view of providing the best possible representation of those non-EU nationals in Ireland who are eligible to work. 13 immigrants represented the following group of non-EU nationals according to their legal status²⁷⁶: (ex)work permit holders,²⁷⁷ spousal permit holders (spouse of employment permit holder), people with long term residency²⁷⁸, people with refugee status, people with leave to remain granted by the Minister for Justice²⁷⁹, parents of Irish born citizen who were granted permission to remain in Ireland on the basis of being a parent of a child with Irish citizenship²⁸⁰, and spouse of Irish citizen. The participants arrived from the following non-EU countries: Nigeria, Zimbabwe, Democratic Republic of Congo, Malawi, India, Philippines, Russia, US and Canada. Their length of stay in Ireland ranged from one year to 9 years with the majority of them being here for at least 4 years. They resided in various parts of Ireland at the time of the focus group sessions²⁸¹: 5 of them lived in Dublin and counties around Dublin, 4 in the South (County Cork, County Waterford), and 4 in the Midwest (County Limerick and County Galway). This reflects the geographic distribution of the (non-EU) immigrant population in Ireland relatively well in light of last Census data (2006).²⁸²

²⁷⁵ Psychoanalytical Institute for Social Research, Rome, Italy

²⁷⁶ Non-EU nationals need an employment permit to work in Ireland unless they obtain residency entitlements.

²⁷⁷ Work permit can be issued for occupations that are not on the list of ineligible occupations. It is exceptional to issue a work permit for positions with an annual salary below € 30,000. Some participants held work permit at the time of the focus group discussion while others had their permit expired.

²⁷⁸ Non-EU nationals may apply for Long-Term residency if they have been resident in Ireland for continuous sixty months on the foot of a work permit. The application process may take up to two years to complete. The Immigration, Protection and Residence Bill if enacted will provide that people on Green Card permit, which is issued for strategic occupations above an annual salary of € 30,000, and in effect for any occupations above an annual salary of € 60,000 can obtain permanent residency after two years spent on their Green Card permit.

²⁷⁹ Non-EU nationals may be granted leave to remain if they cannot be returned to their country of origin for humanitarian or other compelling reasons but they cannot qualify for refugee status.

²⁸⁰ The majority of these non-EU nationals were granted leave to remain in Ireland as part of a once-off scheme in 2005 for two years which was extended to a further three years in most cases in 2007.

²⁸¹ The Republic of Ireland is divided into 26 counties.

²⁸² See www.cso.ie

What have your experiences been like in seeking to obtain employment in Ireland?

It was noted by several immigrants that it had been relatively easy to gain employment until the end of 2007 but since then it had become extremely challenging. Nevertheless they highlighted that entering into skilled and permanent employment had always been difficult.

Ex-permit holders claimed that they are disadvantaged. While they were all welcome a few years ago, the current Government policy and the fashion state agencies deal with non-EU nationals suggest they are expected to leave.

While some employers appear to take advantage of their dependence it was observed that many employers would recruit non-EU nationals if it was not rendered so difficult.

It was also pointed out that some professional qualifications acquired outside the EU are not recognised in Ireland or non-EU nationals are required to study additional modules on the basis that the syllabus of their programme is not equivalent with the Irish educational requirements. The major barrier to any further study for non-EU nationals is high so-called 'international fees' which are three times as much as EU fees. Therefore, non-EU immigrants opted for working under their qualification level in order to earn and subsequently save money which they could not get in their country of origin.

Participants mentioned that employers do not appreciate the value of a foreign qualification. In some cases they are not aware of the qualifications held by non-EU nationals. Furthermore, many employers are primarily interested in immigrants carrying out tasks attached to their position and do not consider their other (often high) skills.

It was underlined that some non-EU nationals did manage to secure highly skilled occupations. The accreditation procedure at the Medical Council was explicitly mentioned as an example of a relatively transparent procedure (apart from the waiting time for the registration exam). However, it was reported that many of the non-EU health professionals struggle to secure permanent contracts.

Immigrants gave some examples of non-EU nationals being discriminated against in regard to competition for positions where Irish/ national (or EU nationals) with less or no experience were appointed at the expense of experienced non-EU professionals. The health and social care sector was mentioned several times as an industry characterised by this practice. Consequently, some non-EU immigrants secured employment or started looking for employment in other countries with better conditions.

What strategies are you using/what have you done to get a better job?

It was noted that it is beneficial for immigrants to have a career plan and set out steps that are necessary to implement this. Some immigrants managed to identify their weaknesses and addressed them through training and/or volunteering.

Most of the immigrants in the focus group attempted to inform themselves in regard to their status and opportunities in the labour market. A number of them noted that they had to do research to that effect as they did not receive guidance.

Several of the immigrants lowered their expectations in order to enter the labour market and access a specific sector they wish to work in. It was illustrated however that there was little change at middle level positions in several organisations and consequently entry-level employees may be prevented from

being promoted. One participant explicitly stated that a number of employees at middle management block the way from committed lower-skilled employees where many of those at lower level are immigrants.

Participant reported that they and other immigrants took various courses in Ireland both at further and higher education level to enhance their chances in the labour market on the basis that Irish qualification is seen as a necessary pre-condition for entering skilled employment.

What seems to be helpful?

Most immigrants agreed that dedication and commitment are crucial in order to succeed in the labour market. It was argued that job seekers should not give up their search for (skilled) employment after being rejected. Furthermore in some cases a new career goal appeared to be more feasible than the original one.

It was also demonstrated that the decision to change profession or occupation resulted in success for several immigrants despite sizable challenges that had to be overcome.

Interview skills are a major factor in the selection process. One participant indicated that a course taken at FÁS which contained a module on interview and presentation skills proved to be very useful.

It was noted that specific courses related to their field of expertise can be beneficial even if they might be under the general qualification level of immigrants. Several immigrants pointed out however that it can also be frustrating if they have to repeat their learning.

Participants pointed out that volunteering provided them with some form of work experience and also contacts however volunteering in the long period can be draining and have a negative impact by constantly reminding the volunteers of their different status as opposed to paid employees.

Several immigrants observed that job seekers have to take care of their CV by emphasising adequately the skills sought by employers. It is also important that they demonstrate their passion and interest in regard to the job by citing examples of their engagement in the field such as the aforementioned volunteering, reading pertaining literature and presenting any related material.

It was agreed by most participants that jobseekers have to place emphasis on networking in Ireland which can provide both references and advice for job seekers in regard to employment opportunities.

Some immigrants who managed to enter the workforce reported upward mobility over a period of time in the catering industry and in multinational service companies. However, as it was indicated, even within the organisation immigrants do not receive promotion quickly.

What hasn't worked?

There was mixed opinion in regard to pursuing higher education courses. According to the experience of several immigrants, completing a higher education course might not necessarily guarantee a job in the field they qualified in. In particular it was argued that pursuing a higher level course immediately after arrival to the country with the view of upgrading overseas qualification (for instance Master programme after having recognised the Bachelor degree) is not beneficial in the absence of work experience. Instead, immigrants should focus on how they can get work experience in a related area (see above). On a minimum level, immigrants should inform themselves on the content of the course to avoid commencing a course that is not relevant to them.

Another point raised was that inadequate preparation for interview may result in refusal. It was also suggested that the currently many employers hire people with lowest possible cost. In other words, jobseekers should aim for entry level jobs and then seek training possibilities in place of waiting for skilled opportunities.

Participants also mentioned that when jobseekers do not seek feedback employers may not give detailed reasons for refusal. This may result in inadequate understanding of why they are rejected in the selection process. However, there is an onus on employer to be more proactive to that effect (see below).

What can employers do to improve the situation?

Immigrants underlined that employers should appreciate English speakers from other countries in the same manner as Irish or UK citizens. Many African and Asian nationals speak fluent English but with a different accent.

Participants highlighted that many employers were not aware of the conditions attached to various residency stamps. It was argued that they should familiarise themselves with the conditions attached to them. Conversely, one participant claimed that many employers are indeed much more aware of the conditions now; however, they became very cautious as a result of Government policy and would not hire non-EU nationals apart from exceptional circumstances.

Several participants stressed that employers show a negligent attitude since 2008 by failing to contact applicants in relation to their refusal. It was also stated that even before 2008 many employers failed to provide detail reasoning for refusal. It was recommended that employers should give feedback why they reject applications and identify areas with reference to the job description where candidates should improve. Possibly, they could even describe potential steps which are to be taken by candidates in order to improve their credentials.

One participant suggested that a pilot project may be carried out where immigrants would be brought together with employers in a structured volunteering scheme. However, upon successful completion, the project should be followed with mainstream implementation in order to avoid wasting resources, which characterised other successful pilot projects.

It was also proposed that employers should give better consideration to foreign qualifications and work experience when promoting employees.

What can employment agencies do to improve the situation?

It was suggested that agencies should form a deeper understanding of a wider range of overseas qualifications and skills. They should attempt to place better emphasis on finding appropriate positions for skilled immigrants and not to match them with any vacancies that arise. However, in the current situation this was seen as less important than entering employment.

Immigrant also observed that agencies were focused on certain types of positions and they did not develop expertise outside of those jobs. (Some sectors such as construction were better covered than others for instance social work; but in general, there appeared to be focus on a limited type of posts). Therefore it was recommended that agency should broaden their knowledge in terms of various positions and develop a more comprehensive recruitment service.

What are the causes of the difficulties that you have encountered?

People with Black ethnicity reported to suffer from discrimination when trying to access the labour market. Examples were quoted when candidates who allegedly were less qualified or had lower level of English secured employment or higher position at the expense of non-EU nationals with Black ethnicity.

It was also highlighted that some employers did not apply for permit despite declaring a non-EU candidate being successful in the selection process. Similarly, an example was quoted where the employer decided not to hire a successful candidate although a job offer was made to the same person previously and permit was received.

According to participants, Government policy has a huge impact on the situation of work permit holders. Employers are discouraged to hire them as a result of the newly restricted employment permit policy where many occupations are declared ineligible and labour market test is extended to redundant ex-permit holders. Added to that, it was underlined that many ex-work permit holders who applied for long term residency/citizenship do not have their applications concluded for years, leaving them in a limbo.

Immigrants felt that it is both unrealistic and unfair in the current economic situation that ex-permit holders who were made redundant are expected to secure employment in three months. Beyond this period they are not guaranteed to receive an employment permit even if they fulfil all normal conditions attached to a permit.

Several immigrants stressed that employers should be better monitored by state agencies in terms of affording equal treatment during the recruitment process. It was also suggested that they should be possibly obliged to take positive actions as to realising equal opportunities for the various immigrant and ethnic groups.

Participants showed that although the qualifications/professional titles of non-EU nationals from specific countries are recognised, many other non-EU nationals have to do additional courses/exams.

Participants emphasised that by prescribing enormous fees for non-EU nationals this group is deprived of the opportunity for refreshing their qualification, which subsequently results in waste of human resources for the Irish economy. Similarly, imposing high fees on non-EU applicants sitting exams with professional bodies constitutes a barrier for professionals trained outside the EU.

Immigrants without proper documentation are not given the opportunity to have their skills accredited in trades, crafts or professions.

Several immigrants stated that setting up business poses great challenges for non-EU nationals due to capital requirement, lack of information and the fact that they are required to leave the country first and apply for business permission from abroad (unless they hold residency entitlements).

What have your experiences been like in the workplace?

Immigrants had mixed experience on the workplace from mistreatment to appreciation, with unfavourable treatment being quoted more often. It was observed that while immigrants may risk losing their employment by raising issues, some of those who had spoken up gained respect from their employers.

Several immigrants indicated that their skills were appreciated; however, as regard to promotion, they were second to Irish and EU citizens.

Regrettably, several immigrants were subject to receiving lower wages than they were entitled to, or receiving it only as a result of fear of sanctions by the labour inspector. In one case quoted in the discussion, taxes were not paid by the employer to the Revenue despite being deducted from the wage.

Service providers

Methodology and profile of participants

This document presents the findings of one focus group discussion and four interviews held in May and June 2009 as part of the READI project funded by the European Commission. It was intended that a variety of organisations, which provide some form of employment support, would partake in the research. The 12 participants were as follows:

Coordinator of Employment Programme for Immigrant Community (Dublin-based organisation), Manager of a city network (Employment and enterprise support, social welfare advice), Mediator at a Local Employment Service²⁸³, Project Worker at a partnership company²⁸⁴, Employment and Education officer of Non-governmental Organisation A, Head of Communication and Integration of Non-governmental Organisation B, Recruitment Consultants of Private Recruitment Agency A and B, Assistant Manager of the State Employment Agency (FÁS), Mediator of FÁS, Programme Coordinator of a Vocational Education Committee²⁸⁵ and Deputy Principal of a vocational training institution. Six of these organisations operate in Dublin, three in other cities and one in rural areas while FÁS is a nationwide organisation. This reflects the distribution of immigrants in Ireland to a large extent according to the Census 2006.²⁸⁶

The four separate interviews were conducted with the two Private Recruitment Consultants, the Deputy Principal of a vocational training institution and a Mediator of the State Employment Agency (FÁS). The remaining people were present in the focus group discussion. The findings shown here is the synopsis of these exercises.

The discussions were held in accordance with the guidelines laid out by the co-ordinating organisation of the project (IPRS).²⁸⁷ The major questions asked during the focus group exercise and interviews were devised by the project partners. The various methods were employed with a view of documenting the experience of the various organisations in regard to dealing with non-EU nationals and assisting them with accessing the Irish labour market at their skill level. It was also intended that they would highlight what they regarded as feasible and what did not seem to bring fruit in regard to supporting non-EU nationals with their search for skilled employment.

²⁸³ The Local Employment Service Network (LESN) acts as the gateway, or access point, to the full range of opportunities which are available to enable a long-term unemployed person enter/re-enter the labour market in Ireland. The participant is an employee of one particular Local Employment Service.

²⁸⁴ The partnership that participated in the research is a local development company that was set up to tackle poverty and social exclusion and receive funding mainly from the State. It offers specific guidance service for immigrants that includes employment support.

²⁸⁵ A Vocational Education Committee (VEC) is a statutory local education body that administers some secondary education and most adult education in Ireland.

²⁸⁶ See Census 2006 at www.cso.ie

²⁸⁷ Psychoanalytical Institute for Social Research, Rome, Italy.

Do you have any special policies or procedures for dealing with immigrants?

Most organisations deal with immigrants on a one to one basis. FÁS (the State Employment Agency) does not have special policy towards non-EU nationals. Other organisations developed special policies/procedures towards immigrants on the foot of external rules and their own experience. All organisations establish the legal basis of residency of non-EU nationals in order to verify their eligibility to work and its content (mainly if they need employment permit or not). This process also clarifies if they have competence to assist the non-EU national in question.

The city network gives advice both to immigrant and Irish clients, similarly to a recruitment agency although it can only provide client service to people with residency entitlements (Stamp 4). In general, organisations funded by the state that were interviewed - FÁS (the State Employment Agency which offers both employment support and training courses, and operates the Community Employment Scheme), the Local Employment Service and the Employment Programme for Immigrant Communities - stated that they are empowered to deal exclusively with immigrants with residency entitlements (Stamp 4). Of the participants, Non-governmental Organisation A and the partnership company may assist employment permit/student visa holders, while private recruitment agencies receive both types of applicants with employment permit holders being more frequent clients until recently. Accordingly, they have to give due consideration to employment permit rules in effect to ensure that applicants are eligible for employment permit for the position in question. The vocational training institution accepts both non-EU nationals with residency entitlements and student visa holders; however, the latter group has to pay higher non-EU fees to enter the courses.

How do you assess skills and qualifications?

The vocational training institution and the State-funded Community Employment Scheme evaluate people's skills through an interview by a panel. Other organisations assess immigrants on a one to one basis.

Most organisations carry out a general assessment in order to map out the skills of migrants. It was claimed that specific services are in a better position to interpret and evaluate overseas skills and qualifications than general employment support services. The vocational training institution developed a process to recognise not only formal qualifications but also learning at work place and decides upon suitability for courses on the basis of practical skills and personal traits.

Private Recruitment Consultant A stated that skills are assessed against a general list of competences along with application of industry specifications that the recruiter has to be aware of. In contrast, qualifications have to be evaluated on an individual basis. It was also underscored that client specifications are major reference points for private recruiters when evaluating qualifications and competencies of applicants. Other organisations also endeavoured to build up sector-specific knowledge regarding competencies in order to steer immigrants into the right career direction.

All the organisations are aware of the existence of the National Qualification Authority of Ireland (NQAI) and avail of its services to some extent. However, they are not fully satisfied with the recognition service.²⁸⁸ (See below.)

²⁸⁸ The National Qualification Authority of Ireland operates a qualification recognition services that determines the Irish equivalent of a foreign qualification.

Several organisations carry out their own research in order to gain a better and more appropriate understanding of the foreign qualifications. This involved contacting foreign institutions directly and conducting web research.

What problems are associated with the recognition of these skills?

Qualifications

All participants agreed that Irish qualification is prioritised by employers and therefore enhances jobseekers chances of obtaining skilled employment. It was also put forward that various academic institutions hold conflicting views with regard to some disciplines such as law.

Participants pointed out that in several cases foreign qualification seemed to be downgraded in the comparability statements issued by NQAI. It was also noted that the qualification recognition service should be faster. Websites of other countries were quoted where immediate information can be gained on foreign qualification systems of a wide range of countries.

Other participants were satisfied with the level of recognition in general. However, they claimed that many employers lack the understanding of the National Framework of Qualifications which forms the basis for the comparability statement. Therefore they felt that more promotion is needed in respect of the framework. It was also observed that the comparability statement is only an advice and therefore it does not 'carry weight' in the eyes of employers.

Guidance

Furthermore, it was argued that more guidance is needed than issuing a statement. Immigrants should be given information as to what kind of career they may pursue and what further steps are needed (if any) to be able compete for those positions. FÁS and vocational training institutions should be better resourced and trained to deal with immigrant applicants/clients. The Assistant Manager of the State Employment Authority (FÁS) acknowledged that the service is overwhelmed and it has limited opportunity in terms of specialisation in respect of various client groups.

Work experience

It was highlighted that work experience is just as important as qualification and this is a major issue for immigrants as foreign work experience is rated lowly. This is also linked to the fact that reference check in regard to foreign work experience is seen as complicated process on account of language problems and the timeframe it takes to receive a reply from an overseas referee. In addition, it was also shown that while highly skilled professions (health or IT) may not face that barrier several non-EU professionals with professional practice (work experience) gained in their country are either denied professional recognition in Ireland or have to go through a lengthy process to be enlisted with the professional body.

Specific issues – work permit holders/refugees

Private Recruitment Consultant A and B emphasised that EU nationals enjoy preference over non-EU nationals. As to applicants for employment permit, their handicap in the labour market could be ascribed to the time it takes to complete their recruitment although the process sped up in recent years.

It was also agreed that refugees face challenges on the basis of gap in their career, which is the result of time spent in the asylum system, and the perception which portrays them as people without skills. It

was also claimed that employers may not know that this group of non-EU immigrants are entitled to work or they stay in Ireland for long-term.

What are your experiences in trying to place non-EU immigrants?

There was a general agreement that it was relatively easy to place immigrants until 2007 but with the economic downturn it became extremely difficult. Service providers stressed however that placing immigrants to skill-appropriate positions had always been a challenge.

It was concluded by Private Recruitment Consultant A that employers attach less risk to immigrant applicants who arrived from a country closer to the jurisdiction of Ireland and subsequently rate their work experience higher. Several service providers observed that even prior to 2007, people with Black ethnicity faced discrimination on several occasions. The extent of this depends on the actual position (whether they are visible or not visible) and also whether it is in Dublin or outside Dublin, since in the latter place immigrants with Black ethnicity are accepted in a narrower range of positions. This was confirmed by the Mediator of FÁS and the Deputy Principal of the vocational training institution that provide work placements in the community and with private employers. A high proportion of people with Black ethnicity were refused to gain placement, which is at odds with the number of failure in any other ethnic/migrant groups.

Concerns related to provision of employment support

Non-governmental Organisation A and B stressed that cultural awareness is need in regard to employment support. The example was taken that some cultures do not allow people to work in a hotel. On the other hand, it should be considered that jobs requiring local specific skills (for instance knowing locations) may not be suitable for migrant entrants in the labour market.

It was noted by several organisations that there is lack of co-ordination between various organisations as they compete for funding and focused on their own activities which hinders service provision to immigrants. It seemed apparent for participants that the state should facilitate the co-ordination of various organisations and also allocate funding with due regard to competencies. It was acknowledged that additional training would render FÁS better equipped at assisting non-EU nationals.

It was observed that it is difficult for several organisations, in particular for those funded by the State, to advocate on behalf of unsuccessful immigrants since many of them are not empowered for advocacy. The main danger is that those organisations can compromise their relationship with employers. The Mediator at the Local Employment Service suggested that unsuccessful immigrants might feel being abandoned by them.

Issues in regards to jobseeker immigrants

It was agreed that the major issues are motivation and confidence. The longer someone is unemployed the more likely he/she remains in that state as people tend to get isolated and console themselves. Therefore it is considered vital to see the value of work and also to witness the success of other applicants which could be interpreted as a proof that this is a feasible option to them as well. It was also proposed that support services should be in place where psychological barrier must be addressed.

The importance of understanding why a jobseeker has failed was also underlined. The particular reasons have to be analysed so that jobseekers do not perceive failure as an insurmountable challenge that they do not understand. It was also stated that those immigrants who do not have a career plan and a vision of what they aim for tend to face more difficulties entering employment. Private Recruitment

Consultant B added that these immigrants may pursue false expectations and apply for positions where they cannot evidence the specified work experience and skills including English language.

It was also highlighted that many migrants are afraid of losing their security, namely social welfare payments, free medical card and social housing. Some of these fears have no valid basis and should be dispelled through information campaign. However, it was also claimed that Government should incentivize employment more effectively while re-considering what social welfare entitlements could be kept if someone takes on employment.

Childcare was also seen as a barrier that may keep primary guardians (mainly mothers) from entering the labour market as they cannot afford private childcare (at least full-time) but they do not have family members to rely on. Family support is essential in the absence of a state-funded childcare provision.

Many service providers found that general skills are essential for entering various types of employment such as English language, computer and social skills that some non-EU nationals lack. Lack of social skills and cultural awareness was believed to be one possible reason for the failure of some non-EU nationals in the Irish labour market.

Finally, several participants described discrimination and racism as important aspects of non-EU nationals' failure to enter the labour market. This appeared to be particularly pronounced in the rural areas of Ireland. However, Private Recruitment Consultants regarded this only as a marginal issue as opposed to other organisations that described it as a considerable barrier to skilled employment.

What do you see as feasible and/or useful in placing non-EU job seekers?

Volunteering/Community Employment

One possible option highlighted by several service providers is volunteering/taking unpaid internships as this does not result in financial obligation on behalf of employers. However, many service providers found that in the current situation there is intense competition even for volunteering. Furthermore, insurance concerns might prevent employers from allowing people who are not officially part of the workforce to volunteer without a formal agreement.

Another option taken by some organisations is to place legally resident non-EU citizens on the State-funded Community Employment Scheme that is available both for Irish nationals and legally resident immigrants who are unemployed. The main beneficiaries of the Scheme are those participants who seek to gain experience in lower-skilled administration and community work. Observation was made that many of the non-EU nationals with Black ethnicity failed to gain a placement outside cities when applied through that Scheme.

Link with employers

Most service providers shared the opinion that it is crucial to establish forums between employers and immigrants for the reason that this can contribute to tackling some of the fears employer hold in regard to immigrant jobseekers. Some organisations set up links with the local chamber of commerce and subsequently a range of employers in particular in respect of highly skilled immigrants. Non-governmental and semi-state organisations²⁸⁹ that participated in the research also established forums

²⁸⁹ This includes the local employment service, Employment Programme for Immigrant Community and the city network.

with recruitment agencies. Related to that, it was also suggested that one to one interaction between employers and non-EU immigrants should be encouraged and facilitated. One participant also proposed that successful non-EU nationals (either in skilled employment or entrepreneurs) could make a representation to employers' organisation or employers directly to enhance their understanding of non-EU nationals' background and highlight skills they held which proved to have benefited employers.

It is strong view among providers that employers have to be shown why it is beneficial to hire immigrants and that subsequent benefits would outweigh any cost incurred. Those non-EU nationals who can demonstrate specific and sought after skills and their relevance in the Irish labour market are more likely to be hired.

Immigrants

It was noted that positive examples must be promoted and shared. Several organisations experienced that the success of applicants encourages other jobless immigrants to follow their example. Some of these immigrants did not even search for employment but they became both motivated and more aware of elements of a strategy that can lead to employment.

Private Recruitment Consultant A highlighted that a number of immigrants opted for taking positions under their qualification level in order to improve their general level of English as well as vocabulary specific to their profession and some of them moved up within the organisation. Other service providers were of the view however that many non-EU nationals have good standards of English but their accent is unusual for English speakers in Ireland, which could be one of the reasons why they were forced to enter lower skilled employment. A number of providers felt that refusal on the basis of insufficient English language competence may be in effect latent racism in some cases.

Government

As for Government policy, it was stressed that employment should be given additional value in respect of immigration matter such as family reunification claims that could in turn act as an incentive. It was concluded that more positive action is needed to promote equal opportunities in recruitment, especially in the public sector that lags behind any other sectors in terms of its failure to reflect the proportion of immigrants in the general population.

Training

As for general skills, only the Employment Programme for Immigrant Communities addresses the various training needs of immigrants in a comprehensive manner including English language needs, interview and communication skills, and cultural awareness. This is available for all legally resident migrants and appeared to be very useful, but the programme is limited to Dublin where it operates. Several Vocational Education Committees provide courses aimed at immigrants. This includes preparatory courses which provide necessary foundation skills (English and computer) for immigrants to enable them to access further education courses; however, these programmes attract fees similarly to separate English language courses. Furthermore, the Programme Coordinator of the Vocational Education Committee spoke of the emerging nationwide programme that is to address the basic language and social needs of some refugees.

It was also underlined that in general it is very useful to have a good knowledge of training programmes available in training institutions. One organisation referred clients to a specific programme which also had work placement attached and some of the participants secured employment afterwards.

Facilitation was regarded as crucial in that process which also entailed a proper understanding of migrants' skills in the first place.

Service providers also agreed that training opportunities have to be explored where training costs are covered by an external provider. One example of that was when a local council offered internship placements. Another successful network-based scheme jointly funded by the Government, EU and employers provided industry related training/upskilling courses at the workplace. The scheme entitled 'Skillnet' was however only available for immigrants at employment and its funding was severely cut recently. While FÁS offers free training courses the waiting time was deemed to be excessively long. The Mediator of the Local Employment Service proposed that training could also be provided outside the workplace through private resources along with some subsidy by the State in order to meet demand in a shorter timeframe. The Mediator at FÁS opined that higher education courses can be accessed in a speedier manner and long-term unemployed (in general unemployed for at least one year) can be exempt from fees through a scheme.

The Project Officer of the partnership company argued that there was a clear mismatch between training and employment opportunities. This was exemplified by the large number of childcare courses a few years ago which did not necessarily guarantee employment. Almost all participants stressed that there is a serious need to review current training courses and adjust the training system in a coherent way to the context of the labour market

How successful are you in placing immigrants in jobs that are appropriate given their skills and qualifications?

It was felt that organisations had succeeded in several cases until the mid 2008 when the economy started declining although some of the assisted migrants were forced to take on lower-skilled positions. Since 2008 organisations have been facing enormous challenges with regard to assisting migrants with skilled employment.

What sectors are most receptive to employing non-EU immigrants and in which jobs?

Social care, retail business, customer centres and multinational manufacturing companies were mentioned as the most likely workplaces that had welcomed immigrants recently. Financial sector including the IT sub-sector and health industry were quoted as main target industries for skilled migrants while construction and law also attracted several non-EU professionals. However, recruitment suffered a huge setback last year in these sectors.

Service providers concurred that one successful migrant within an organisation can pave the way for other migrants. This applies both in respect of employers who are more willing to hire migrants with similar characteristics and immigrants who are encouraged by their friends and fellow citizens to apply with the organisation.

What are the key factors in determining long-term employment?

It was emphasised that moving positions frequently have potentially undermine one's chances to secure long-term/permanent posts. Immigrants may also be expected to demonstrate long-term commitment to the country when searching for long-term/permanent positions. Added to that, a career plan also seems essential to achieve long-term employment.

Additionally, it was observed that where non-EU nationals can demonstrate strong commitment and skills that are normally not offered by EU/Irish nationals they stand better chance to be hired and retained. This can be confirmed by the experience of certain financial, IT, health and social care professions as well as chefs. Added to that, those employed by state and semi-state organisations enjoy more security than private sector employees.

Lastly, in the passed year permanent positions became rare to come by and many people lost their employment. Consequently, enhanced competition for the remaining positions has led to narrowed opportunities for immigrants. Service providers unequivocally stated that current labour market is characterised by the scarcity of long-term employment opportunities.

Employers

Methodology and profile of participants

This section summarises the findings of 12 interviews conducted separately with each employer in April and May 2009 as part of the READI project funded by the European Commission. While selecting participants, due regard was given to draw employers from various types of industries employing non-EU nationals in Ireland and select different size of businesses. The following businesses took part in the research: a customer contact centre, a nursing home, Transport Company A and Transport Company B, an information technology firm, a manufacturing firm, an insurance company, a financial advisory firm, a hospital, a hotel, a restaurant and fast food restaurant chain. Their size ranged from small (up to 50 employees) to middle (several hundred) and large (1000-3000).

The interviews were conducted in accordance with the guidelines laid out by the co-ordinating organisation of the project (IPRS)²⁹⁰. The major questions asked during the interviews were devised by the partners of the project. The focus of the interviews was to capture employers' view in regard to considering, recruiting and employing non-EU nationals. The main objectives of this field activity were to identify what the main advantages and challenges are for employer in respect of non-EU candidates and employees, and to highlight measures they have taken to address those challenges.

Employment of non-EU nationals

Employers suffered from either labour or skills shortages or the combination of both during the period of 1999-2007. The first refers to the situation where there was not adequate number of individuals willing to take up positions, which could be linked to the fact that many of the companies interviewed were expanding in that period while Irish people did not show sufficient interest in several (sub)sectors in need of labour such as transport, manufacturing and social care. Skill shortages occurred in industries where trained/qualified individuals could not be sourced from the domestic pool of labour. Employers listed various skills such as languages, IT, specific financial qualifications, culinary skills and various health qualifications that non-EU nationals brought into their workforce. It was believed by most interviewees that employers would have had difficulty with operating effectively without the contribution of non-EU nationals.

On the whole, organisations interviewed as part of the research either recruited for entry positions (drivers, customer service positions, general operative, cleaners, hotel porters and waitress) or specific highly skilled posts (chefs, accountant, IT specialist, medical practitioner and nurses). The only middle skilled position mentioned in the interview that was filled out by non-EU nationals was care assistant.

It was pointed out that non-EU nationals tended to demonstrate loyalty and commitment to the organisation and they also brought good ethic with themselves. The representative of the restaurant sector however observed a fluctuation in the workforce which characterises the sector in general. Many employees did not see it as a career for them while some others went on to establish their own business.

Only a few organisation recruited actively abroad with some of them abandoning this process later as growing number of applications were received from non-nationals within and from outside Ireland. All employers stressed that they did not wish to hire non-EU nationals specifically; however, they held skills and (as for senior positions) work experience which rendered them the most suitable candidates.

²⁹⁰ Psychoanalytic Institute for Social Research, Rome, Italy.

A number of employers illustrated that, at the end of the period of 1999-2007, an increasing number of non-EU applicants tended to receive information on vacancies through informal sources such as networks. At the same period, a new group of non-EU graduates emerged as an additional source of skilled labour which was increasingly tapped into by employers from manufacturing industry to financial institutions.

Key consideration when employing non-EU nationals

Employers had to take cognisance of the employment permit regulations valid at the time of recruitment. The first group of companies interviewed which needed a significant number of employees to fill out entry level positions were either not eligible to receive permit (bus drivers, general operatives) or faced great challenges in securing a permit on the basis that they did not meet the normal salary requirements (customer service positions). Therefore they opted for hiring non-EU nationals as students, which was a relatively simple procedure, or recruit people with residency entitlements (refugees, people with other forms of protection and non-EU nationals with Long-term residency status, etc...) One respondent, who obtained permits with difficulties, argued that specifications in regard to eligibility for work permit should be more flexible than the current parameters which were considered to be overly rigid.

The second group employers obtained employment permit relatively easily until 2008. Nonetheless it was highlighted that the application process was time-consuming in particular along with the additional visa application procedure. This improved in recent years. However, they reported that as the employment growth reversed, employment permit policy became strict; this was exemplified by the most recent changes in regulations. One respondent gave the example of the position of care assistant which is no longer accepted for employment permit application while many non-EU nationals received a permit to work as a care assistant prior to change in the policy.

English language was mentioned by nearly all employers as a general requirement in regard to any employment opportunities although fluency was not needed for most positions. It was observed by several respondents that non-EU nationals in general have a good command of English as opposed to EU nationals who appeared to have difficulty with communicating in English. However, there were examples shown where non-EU had low standard of English especially in the restaurant/hotel sector.

Assessment of skills and qualification

The method of assessment varied from an employer to another, depending on positions, resources of the organisations, the sector and whether it is indigenous or global company. It could be observed that those companies that have global network were in the best position to evaluate foreign qualification and work experience. They became also aware of the various regulations in place with regard to a profession in the country in question that required a flexible approach. One employer illustrated that the title of a particular profession was pending on a membership at the governing body of the profession in many countries. However, there were a few countries where membership was not a condition for receiving the special license of the profession.

As employers considered a growing number of non-EU applicants, several organisations familiarised themselves with the education/training system of various non-EU countries. Organisations hiring skilled individuals appeared to give preference to those countries they were more familiar with or whose educations/training system was considered to provide for a smoother transition in the Irish context. It is difficult to distinguish how much of that preference was triggered by objective facts such

as the evidence of high quality IT training in India and perception of the employer. The latter one can be exemplified by the words of two employers. The first one stated in regard to social care positions that ‘Philippines is a caring nation’ while another employer expressed his views that ‘most Africans do not seem to have skills which are sought in Irish restaurants’. Interviews suggested that these preferences can only be described as tendency and individual employers may think otherwise. Nevertheless, they have influence over the selection of applicants.

A few organisations hiring professionals in a regulated profession indicated that the process is controlled by the governing body in question. They liaised closely with the professional body and requested applicants to submit all necessary documents at the beginning of the recruitment process in order to speed up the verification process. They noted that there were delays in that system which improved in recent years somewhat. One organisation emphasised that they could not challenge the decision of the professional body where several of its employees were refused to be registered; however, they did draw on their excellent skills when allocating tasks.

Several semi-public companies made use of the qualification service of the National Qualification Authority of Ireland. They either requested a comparability statement that placed the foreign qualification to a level of the National Framework of Qualification in Ireland or availed of the growing database of foreign qualifications and educational systems developed by the Authority.

Those organisations that recruited to lower skilled positions did not have to consider foreign qualifications in detail. Nevertheless they looked upon qualification favourably when promoting individuals within the organisations.

It appeared that computer and language skills were regarded as transferable between countries and therefore their verification was a smooth and quick process. As for culinary skills, the interviewee from the restaurant noted that while it posed sizable challenges to verify foreign qualification and work experience, testing skills in practice is a feasible method to assess the credentials of applicants/new employees. The participant representing the nursing home underlined that terminology and concepts are almost universal in regard to social care therefore these can be used to measure applicants skills and experience irrespective of nationality.

The representative of the hotel recounted that the company was subject to fraud by an agency that brought in Asians work permit holders who were said to be qualified chefs but they did not hold culinary skills. The two non-EU nationals were oblivious to the arrangements. The employer decided to retain the two work permit holders and train them as chefs while taking the necessary legal action against the agency.

A few employers emphasised that applicants must show passion for the position they apply for and they rated highly those individuals who demonstrated their strong interest in the opportunity on offer.

Challenges in regard to employment of non-EU nationals

A major challenge identified by employers was English language. This appeared to be more of issue between non-nationals and the public such as the group of customers/clients/patients/guests than among employees. It was argued that not English in general but colloquial English and accent as well as technical English used in the given occupation/profession that posed problems for certain group of non-nationals.

Another challenge identified by many respondents was cultural differences and subsequent lack of awareness of other cultures. These differences were manifested through body language, interaction (greeting, addressing each other etc...) and opinion based on stereotypes. Furthermore it was highlighted that cultural difference also resulted in various work approaches/practices. This latter could be seen in carrying out tasks differently as well as contrasting daily routine. One employer showed the example of some non-national employees working through their break which had to be addressed.

It was illustrated that in some cases the public approached non-national employees with disrespect and intolerance. This was viewed as problematic especially by those organisations that did not have the opportunity to build a long term relationship with individuals. It must be said however that several positive examples were also shown in the interviews where people showed appreciation toward non-EU employees.

It was noted that nationalities or people with similar cultural background tended to form a group within the workforce which was ascribed to the concept of 'comfort zone'. It was felt this could not be broken down by force. However, communication has to be supported and (if necessary) facilitated between those groups. A few organisations explicitly mentioned that extra care had to be taken when a larger group of immigrants entered the workforce.

It was observed that those organisations that had even dispersal of non-national employees saw a faster process of integration than those where nationalities were concentrated in one location or where a large number of non-nationals were clustered together. It was also underscored that those companies which provided equal conditions for their employees and subsequently had Irish and non-Irish in the same position with the same working conditions including benefits witnessed a major step towards social integration. Transport Company A pointed out how Irish and non-Irish employees had bought houses in the same location and their children went to the same school.

One respondent opined that incidents occurring among individuals are not necessarily linked to nationalities but to personalities. It was suggested that disagreements and misunderstanding were just as common among Irish nationals as between Irish and non-Irish employees.

Means to address challenges

Policy initiatives

The following documents were adopted by employers: equal opportunities policy regarding recruitment and promotion, diversity statements, diversity/inclusion policy and anti-discrimination policy.

Cultural and social events

Several employers organised cultural days such as serving dishes, wearing national attire, decorating the workplace with flags and other national symbols, and displaying intercultural calendars.

Transport Company A objected to organising these events arguing that they are superficial and ineffective in the long term. Several other organisations decided to do away with these types of initiatives recently seeing that there was no longer need for employees to gain understanding of cultural and personal background of their colleagues as the recruitment came to a halt. Moreover, some organisations reported that employees themselves voiced their opposition to these types of measures for

the reason that they wanted to be seen as an integral part of the workforce as well as society whom should not be given specific focus to.

External activities that brought together different nationality/minority groups were supported. These included sport activities (cricket and marathon running were explicitly mentioned) and social gatherings.

Awareness raising internally

Employer attempted to raise awareness through displaying posters and circulating magazines that promote an inclusive and intercultural workplace. Non-EU nationals were given the opportunity to do presentation on the country of origin and personal background. One interviewee (the IT firm) made arrangements for publishing articles by non-national employees on their personal experience in the workforce and in Ireland in general. Another initiative taken by a different employer (the hospital) was to organise cultural quizzes.

Customer/client/guest relation

Several organisations pursued public campaigns to demonstrate the benefits of diversity and tackle negative attitude towards the newly diverse workforce. The transport companies that were interviewed took the lead in this activity by showcasing their positive experience through posters and leaflets.

It was observed that the best response towards disrespectful or potentially racist behaviour is patience and kind manners coupled with quality service provision which proved to have the capacity to change the attitude of several customers/guests. The hotel that was interviewed adopted the motto “Kill them with kindness”. Of course, racist abuse or harassment is not tolerated from customers/guests.

It was also underlined that regular clients/residents in a hotel/ nursing home displaying inappropriate behaviour towards non-national employees have to be dealt with via a long-term strategy. It was felt that the best way to address issues is to discuss incidents and challenges attitudes rather than separate those clients/residents from non-national/minority employees.

Training

Half of the participating organisations put in place various forms of diversity training. The main emphasis was placed on enabling participants to carry out self-evaluation and reflecting on their stereotypes by questioning sources of information that is used for forming their opinion. Majority of the employers underlined the importance of creating an inclusive work environment and strengthening the bonds between the various groups. This was summarised by Transport Company A as ‘ we have to create the concept of “us” as opposed to “them”’.

Induction/integration

Some employers provided new employees with assistance in regard to their orientation and settlement in the country.

All organisations attached huge importance to the induction process and endeavoured to deploy necessary assistance for new employees.

Majority of the organisations regarded the manager’s role as crucial in terms of monitoring the integration of the new employees in the workplace in general and in the actual team they work in.

The nursing home appointed a mentor/buddy to guide new employees in the initial stage of their employment while a few other interviewees encouraged mentoring with a view of supporting induction and integration into the workforce. This appeared to have the potential to iron out differences in terms of work approaches/practices based on cultural and personal attributions that could otherwise lead to problems.

Support in the workplace

Constituencies or support groups were considered to be a suitable forum for dialogue to raise and address issues related to the group and give or seek support for the members.

Four of the organisations interviewed appointed a diversity/equality officer which seemed to have enhanced the focus on implementing effective diversity measures. A few of the employers distributed a contact list of support personnel who can give advice/information as to diversity and equality issues. One organisation (the IT firm) operates a confidential employee relation service that can be contacted with regard to any employment relation matters. Prayer rooms were also offered by the same organisation.

Understanding of regulations and vocabulary of the work place

Several organisations translated health and safety signs into those languages whose speakers did not show adequate level of English. Other organisations opposed to translating materials on the basis that it is almost impossible to find the appropriate scope for what should be translated and how many languages should be used. Furthermore, this may also hinder the language learning of foreign employees. The manufacturing firm and Transport Companies A and B displayed health and safety instruction through symbols which were considered clear and straightforward. Additionally, plain English was used for explanation.

A few organisations such as the financial advisory firm and Transport Company B reported that needs of non-native speaker employees in terms of technical terminology could be addressed in the form of specific courses or booklets. The objective of these measures was teaching non-national workers specific vocabulary or jargon which is in use by the company.

General policy that benefits migrant employees

Nearly all organisations interviewed adopted a strong policy on dignity at the workplace including those which did not put in place a diversity policy in place. The objectives of dignity and respect were highly regarded in the work places. Added to that, bullying and harassment were explicitly outlawed and sanctioned by the organisations.

A number of employers provided educational support scheme for employees. The scheme was frequently availed by migrant employees.

Diversity of the workforce

Nearly all employers interviewed recruited several non-EU nationals into its workforce. Some bigger organisations had more than 20 different non-European nationalities present in their workforce at the time of the interview. Non-EU countries that were represented in these organisations included Nigeria, Pakistan, Bangladesh, China, India, Ukraine, Zimbabwe, South Africa, Australia, Saudi-Arabia and Brazil.

The majority of the bigger organisations recruited new employees (including non-EU nationals) at entry level for low-skilled positions. However, the IT firm, Transport Company B and the two financial

companies that were interviewed hired people both at entry level jobs (with several of these jobs being also skilled) and higher posts in various departments. Of the larger organisations interviewed, the manufacturing firm and the fast food restaurant chain promoted their operatives/sales assistants in a relatively short period, and several non-EU national moved up within the various sectors at the IT firm. The two transport companies that participated in the research can be described as bottom-heavy organisations where only a small number of vacancies arose since they commenced recruiting non-EU nationals. Nevertheless, a few new positions were filled internally by non-EU nationals. As for the insurance firm, promotion did not emerge as a possibility yet as there were limited vacancies in the middle level between 2005 when employment of non-nationals commenced on a large scale for entry level positions and 2008 when recruitment came to halt abruptly as a consequence of economic slowdown. The financial advisory firm saw a marked fluctuation in its workforce due to the nature of this type of work which can be typified by short-term contracts and frequent changes of residency.

Several smaller employers - the customer contact centre, hotel and restaurant - that partook in the research elevated non-EU nationals within the organisation to higher posts. In contrast, the nursing home hired non-EU nationals both at skilled (nurse), and low-skilled positions (housekeeping) and they were not presented with the opportunity of promotion yet as a result of the limited number of managerial posts. Further to that, the employer argued that they could not promote non-EU care assistant to nursing positions in spite of their great skills seeing that the Irish Nursing Board did not validate their qualifications.

The hospital which was interviewed can be portrayed as unique organisation in comparison to other employers for non-EU nationals had been part of its workforce prior to the period (mid 90's) when other organisations commenced recruiting non-nationals. Non-EU nationals permeated every part of the organisation from various health professions (doctors, medical specialists, nurses, etc...) to clerical positions. The highest concentration of non-EU citizens was among non-consultant doctors. The hospital argued that this could be linked to the fact that many non-EU doctors remain in Ireland only temporarily.