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Policy Brief - POLAND

<p>The project aims</p>	<p>EMILIE PROJECT OVERVIEW</p> <p>EMILIE examines the migration and integration experiences of nine EU Member States and attempts to respond to the new challenges that multiculturalism is facing in Europe in the early 21st century. EMILIE studies three important areas: Education; Discrimination in the workplace; Voting rights and civic participation, in Belgium, Denmark, France, Germany, Greece, Latvia, Poland, Spain and the UK. EMILIE aims to:</p> <ul style="list-style-type: none"> • track the relationship between migration-related diversity and citizenship, i.e. multicultural citizenship, across these EU countries; and • identify whether multicultural citizenship is emerging in Europe, and if so what distinctive patterns and types can distinguished.
<p>Case studies</p>	<p>EMILIE conducted three policy-related case studies in each country. The first set of case studies focused on education policy and the measures and practices adopted in dealing with cultural diversity in secondary education. The second set of case studies assessed the implementation of the EU 2000 Anti-Discrimination Directives in the different national contexts. And the third set of case studies investigated voting rights and overall issues of political participation and representation of migrant communities and ethnic minorities in the countries studied.</p>
<p>Definitions</p>	<p>(Multicultural) Citizenship: The notion of citizenship requires a self-governing political community in which individuals have rights and correlative duties enforced by law but are likely to also have a sense of shaping and being shaped by a public space that goes beyond law and politics. Multicultural citizenship debates ask how citizenship can be fully enacted for and by individuals that are culturally diverse.</p>
<p>Methods, data and period of reference</p>	<p>Each case study focuses in the last twenty year period (from 1989 till today). Data collected include policy documents, media coverage, scholarly studies, statistical data, qualitative interviews with key informants, and where it has been possible discussion groups with civil society actors and policy makers.</p>
<p>Focus</p>	<p>The project is concerned with migration-related cultural diversity and not with historical, native ethnic minorities. Special attention is paid to religious diversity and issues concerning Muslim migrants as their integration in European societies has been approached as increasingly challenging in these EU Member States.</p>

Main findings

- The scale of immigrants' presence in the Polish labour market is not comparable with other European countries. Poland is yet to experience labour immigration.
- So far little research has been done on the issue of immigrants' discrimination in the labour market.
- Cases in which employers take advantage of immigrants rarely reach the media headlines. They do not reach courts as cases of discrimination either. Interestingly the low awareness of anti-discrimination legislation among Poles is shared by foreigners.
- Polish constitutional anti-discrimination clause and equality provision go beyond the scope indicated in the Racial and Employment Equality Directives. While the Polish Labour Code is in line with the 2000/43 EC and (2000/78/EC) Directives.
- Political will is missing in the overall context of the Equal Treatment directive. The *Bill on Equal Treatment* prepared by the Polish Ministry of Labour and Social Policy is more coerced by international, and in particular EU, directives than is a result of own policy initiatives.

The scale of immigrants' presence in the Polish labour market

In Poland the vast majority of the immigrant population regards first generation immigrants. The number of naturalized immigrants remains insignificant: there were 10,140 acquisitions of Polish nationality in the period 2002-2007. According to the estimate of the Central Statistical Office, the number of immigrants residing temporarily (for three months or longer) in Poland at the end of December 2006 was approximately 200,000. 60,000 of these immigrants have been living in Poland for more than 12 months. The economic situation in Poland is worse than most other EU countries, salaries are lower and unemployment rate is quite high (in August 2009 – 10.8% but in 2004 19%) In this context, immigrants are mainly preoccupied with finding work and legalising and/or prolonging their stay.

The scale of immigrants' presence in the Polish labour market is not comparable with other European countries. In the 1990s and the early years of 2000s, the number of work permits issued to foreigners was around 20,000 per year. Yet the number of seasonal workers that can be employed without work permit today is much higher. For example, in 2008 the Regional Labour Offices registered 156,000 declarations from employers wishing to employ seasonal workers (each declaration concerns the invitation of a single foreigner). These numbers do not denote the final number of seasonal workers that actually work in Poland. Yet they provide an indication of the volume of seasonal labour flows. They are not a reliable indication though since a foreigner may work for and therefore may be registered by more than one employer (working for more than one employer requires additional registration).

The vast majority of foreigners working in Poland are employed in the shadow economy. People performing irregular work are not protected by the Labour Code at any stage of their employment. Therefore, researching discrimination is methodologically problematic when we look for its manifestation amongst both legally and illegally employed persons. Researching the case of ethnic discrimination at the workplace of certain migrant groups like the Vietnamese, Turks or Armenians is similarly difficult since they stay in close relations to their ethnic communities and perform employment within them.

Discrimination at workplace

The regulations on the employment of immigrants in Poland are part and parcel of the protection of the overall domestic labour force. However, the categories of foreigners who can work without work permits have been increasing steadily and the cost of obtaining a work permit has decreased.

In 2004, a separate chapter forbidding both direct and indirect discrimination was introduced into Labour Code. This ban refers among others to discrimination based on race, nationality, religion or ethnicity. Therefore, Polish Labour Code is in line with the 2000/43 EC and (2000/78/EC) Directives.

The manifestations of discrimination vary when looking at different groups of foreigners. Refugees, persons granted with supplementary protection or tolerated stay status meet obstacles at the level of access to work. Employers are skeptical in employing these groups even though there is no work permit requirement for them. This occurs mainly due to the lack of contacts with “strangers” in general. Another serious obstacle for immigrants stems from the limited knowledge of employers with regard to the legal procedures concerning access to the labour market by foreigners. Interestingly, this refers not only to small firms/companies but also to larger entrepreneurs or even to international corporations.

According to the experience of the National Labour Inspectorate, the phenomenon of discrimination in the workplace is a matter that Polish society remains unaware of. Discrimination will be more of a pressing issue for the second generation of immigrants. However, for the time being both Poles and immigrant workers have a low level of awareness of discriminatory practices or anti-discrimination legislation. It is only foreigners coming from Western countries who are more conscious of discriminatory practices.

Policies and instruments designed in favour of immigrants

Polish constitutional antidiscrimination clause and equality provision go beyond the scope indicated in the Racial and Employment Equality Directives. They refer to all persons staying on Polish territory regardless of their status. However, such provisions do not work without executive regulations. In this respect, the Labour Code regulations are crucial. In 2004 a separate chapter forbidding both direct and indirect discrimination was introduced into Labour Code. This ban refers among others to discrimination based on race, nationality, religion and ethnicity. Therefore, with regards to the Labour Code, Polish Law is in line with the 2000/43 EC and (2000/78/EC) Directives. However, it has not extended provisions of equal treatment to the spheres of social protection, healthcare, education and higher education, access to goods and services, and housing.

Designating an institutional body that would promote the directive of equal treatment regardless of racial or ethnic origin has encountered many difficulties in the Polish case. The first attempt to produce the Bill on Equal Treatment (which extends legal definitions of direct and indirect discrimination, among other fields, to social protection, healthcare, education and higher education, access to goods and services) by the Ministry of Labour and Social Policy started at the end of 2003 and it is still not in force. This fact alone indicates that the topic is not a policy priority in the unstable political landscape of Poland. The *bill on equal treatment* prepared is more coerced by international, and in particular EU, directives than is a result of own policy initiatives.

**Co-ethnic
Entrepreneurs
and Employees**

Stay legalization procedures are discriminatory towards entrepreneurs that are third country nationals. Entrepreneurs receive a temporary stay permit for a year, but in reality, they must start the procedure of renewing their permits six months in advance. In order to renew their cards, foreigner entrepreneurs must prove that their economic activity is profitable to the Polish economy. The decision on the profitability of their activity is eventually carried out though by an official. Corruption and discrimination are very likely to occur in this context. The above procedures indirectly affect all the co-ethnic employees (a characteristic example are the Vietnamese) working in the firms of immigrant entrepreneurs.

Another discriminatory aspect of the regulations legalising the stay of third country nationals in Poland (except those under international protection) is that they are required to have funds for their maintenance and health care.

**Key
message for
policy makers**

Foreigners originating from poorer countries, and Poles alike, have a low level of awareness of the anti-discrimination legislation. The second generation of immigrants surely will become more aware of discriminatory practices and anti-discrimination legislation. Training officials working for institutions.

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For more information on the Social Sciences and Humanities Research Programme of the European Commission please see:

http://ec.europa.eu/research/social-sciences/index_en.html