



**Guide to
Equal
Treatment
in the Private Sector**



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**Non-Poles on the Polish Labour Market
Problems and Challenges**

An overview of the issue of racial/ethnic
discrimination in the private sector in Poland



For Diversity



Against Discrimination



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This publication is supported by the European Community Action Programme to combat discrimination (2001-2006). This programme was established to support the effective implementation of new EU anti-discrimination legislation. The six-year Programme targets all stakeholders who can help shape the development of appropriate and effective anti-discrimination legislation and policies, across the EU-25, EFTA and EU candidate countries.

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Special thanks to: Elayne Fracaro-Bieniecka, Anna Gąsior-Niemiec, Piotr Kaźmierkiewicz and Beata Samoraj for their comments and editing the text and to Anna Frelak for her help with the cover design.



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1. Introduction

The collapse of the communist system resulted in significant political changes in Poland. Among other phenomena, the transformation and opening of the borders initiated a flow of migrations. Poland became a host to legal and illegal immigrants, refugees and Polish repatriates. The intensity and size of those migrations have been far more considerable than anyone could have expected, although only a few of those migrating people have wanted to stay in Poland for a longer time.

Given that, immigration and discrimination are relatively new topics in Poland. These issues are not of significant importance as they directly consider only a fraction of the Polish population. Polish society is dominated by economic and social problems related to transformation rather than immigration. As such, problems concerning newcomers in the homogenous Polish state, in terms of their integration or discrimination have largely been ignored by politicians and most of society.

At the same time, economic, social and demographic factors have led to the situation where many EU member states with a continuing relatively high unemployment and lower than desired levels of labour force participation are having shortages in particular sectors and regions. Some mixed messages can be read from the measures that have been adopted to solve the problem in recent years. On the one hand, the EU has developed policies to fight racism and discrimination and to launch initiatives aimed at encouraging excluded groups to fully participate in their national labour markets or to attract migrant workers to come to EU countries and undertake work. On the other hand, some EU states introduce more stringent regulations to halt migration and to 'protect' their labour markets by limiting the access of non-citizens to employment and residence. All these are technically legitimate instruments for regulating access to the labour market (the EU Racial Equality Directive does not cover differences of treatment based on nationality), but they may constitute a factor which contributes to inequalities and might be treated as a form of discrimination.¹

In Western European countries, one of the biggest problems related to immigration is the fact that many immigrants, even the second or third generation, cannot find themselves on the labour markets of host countries. They often have to accept work that has low status and conditions, below their qualifications. This creates a problem, since having no job they become clients of social services. This unprivileged status correlates with a growth of social pathologies, including crimes.

In contrary to most other EU countries, immigrants in Poland are not so numerous and they are most often quite well situated (especially that legal immigration considers mostly highly skilled professionals). Legal employment of foreigners has hardly any impact on the economy in terms of the labour market.² On the other hand, Ukrainians and other migrants from post-Soviet countries who come to Poland on tourist visas and work in a shadow economy choose shuttle migration and leave the country after completing their work. Additionally, immigrants often appear in Poland as *foreign investors* who create workplaces and as such they are perceived rather positively by most of Poles.

The aim of this text is to gather the experience of various specialists in the field of migration, anti-discrimination, ethnic and minority studies in Poland in a comprehensive report that will focus on visibility and awareness of discriminatory acts³ committed in the area of 'publicly offered goods and services' involving the private sector and an evaluation of the specialists'

¹ Racism and Xenophobia in the EU Member States. *Trends, Developments and Good Practice*, EUMC – Annual Report, 2005.

² Duszczak M., Korczyńska J. *Zapotrzebowanie na pracę cudzoziemców w Polsce*, Institute of Public Affairs, Warsaw, 2005.

³ According to Council Directive 2000/43/EC, Official Journal of the European Communities, L 303/16 2.12.2000.



practical assessment of the political, social and legal impact of EU policies and their future development.

Our analysis is divided into six major parts. The first presents general migratory trends in Poland and studies on attitudes towards non-Poles. The second one shows a specificity of foreign labour market in the country showing the conditions of Polish labour market itself, attempting to classify non-Poles working in Poland and giving an overview of legal frames for foreigners' employment.. The fourth one discusses the key issue of unequal treatment and discrimination on the labour market. The fifth chapter focuses on public debate concerning migrants living in Poland and visibility and awareness of discriminatory acts. The last part presents state institutions and NGO's that deal with immigrants' and discrimination issues.

In this text, we define **immigrants** as all foreigners who have come to Poland. According to their legal status in Poland, we distinguish legal immigrants (those who came to Poland legally and have valid documents to be in Poland), naturalised immigrants (those who immigrated to Poland and received there new citizenship) and illegal immigrants (those who either came to Poland illegally or overstayed their legal stay). According to reasons and lengths of stays we distinguish the following types of migrations: long –term migrations (family reunification, repatriation, employment), shuttle migrations (connected mostly with petty-trade), temporary migrations (seasonal work), etc.

Referring to all these people in general, the category non-Poles is also used. It applies to the sociological category of 'aliens' and through this we define both immigrants and those Poles who are commonly perceived as foreigners or alien.⁴

Discrimination, is defined according to the Council Directive 2000/43/EC as the situation when a person is treated less favourably than another in a comparable situation on the grounds of racial or ethnic origin (direct discrimination), or where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary (indirect discrimination).

⁴ This last category conditionally includes members of old national minorities such as Polish citizens of different ethnic or racial origin; Germans, Ukrainians, Byelorussians, Gypsies etc. who have Polish citizenship but who, in certain situations, are experienced as non-Poles (or aliens). We can see this on the example of all Roma minority, who are racially and, to a lesser extend –culturally, distinguishable on everyday basis.



2. Migratory situation in Poland

Main trends of migration in Poland

Since the collapse of Communism in 1989, the number of people immigrating to Poland has been steadily growing. The most recent data presented by the Main Statistical Office shows that in 2004 immigration has been the highest since 1960 and reached 9 thousand.⁵ The number of immigrants in Poland, although growing, is still very small especially when compared to other European countries, i.e. United Kingdom or Germany. Even in comparison to other CEE countries such as the Czech Republic or Hungary this number appears relatively low.⁶

Immigrants may be divided by their legal status. The national census carried out in 2002 indicated that only 40,200 foreigners (the so-called 'usual residents') resided in Poland. Nearly half of them were nationals of post-Soviet states. Information on other groups of immigrants living in Poland can be drawn from the **temporary residence permit** (i.e. between January and October 2004, 28,186 foreigners were granted this permit.⁷).

It should be stressed that migration flows are captured by official data only to a certain extent⁸ and the vast majority of foreigners who reside and work in Poland remain outside of this number. They are foreigners who come to Poland having a tourist visa and take up seasonal work, often overstaying their visas. Accurate knowledge about foreigners living in Poland is very incomplete - all information on illegal migrants is estimated and their numbers in Poland range from several to a few hundred thousand depending on the source.⁹

For the past 16 years, immigration to Poland has been dominated by people coming from Ukraine, Russia and other post-Soviet states. Two other categories are: foreigners coming from highly developed countries such as: Germany, France and UK and immigrants from Asia, among whom Vietnam remains the dominating country of origin.

Besides these groups of foreigners settling/residing in Poland mainly for economic reasons, two other categories should be mentioned: immigrants looking for legal protection and repatriates. **Asylum seekers** constitute a significant number of foreigners staying in Poland and their number has been increasing constantly since 2000. Nationals of Russia (particularly the Chechens) are the main group contributing to this increase. Between 1998 and 2004, 1,080 persons were granted refugee status in Poland.¹⁰ As far as the tolerated status is concerned, between September 2003 and September 2004, 628 persons were granted it, of which 60 in 2003 (September-December) and 568 in 2004 (January-September).¹¹

Also, there is the continuous process of resettlement of ethnic Poles or those who claim Polish origin which began in the nineties. The **repatriation** of Poles from the regions of former Soviet Union is foreseen by the Repatriation Act, which entitles them to receive state

⁵ Biuletyn Migracyjny (2005, vol. 2), <http://www.migration-news.uw.edu.pl/BiuletynMigracyjny2.pdf>

⁶ Grzymała – Kazłowska A, Okólski M, *Influx and Integration of Migrants in Poland in the Early XXI Century*, Institute of Social Affairs, Warsaw University, Working Papers, no. 50, 2003.

⁷ Kępińska E., *Recent trends in International Migration. The 2004 SOPEMI Report for Poland*, Institute of Social Affairs, Warsaw University, Working Papers, no. 56, 2004.

⁸ *Ibidem*.

⁹ Compare: Iglicka K., *Ethnic Division on Emerging Foreign Labour Markets in Poland during the Transition Period*, in: *Europe-Asia Studies*, Vol. 52. No. 7, 2000; Data from the publications of Institute of Social Affairs and The Institute of Labour and Social Studies.

¹⁰ Source: Office for Repatriation and Aliens, www.uric.gov.pl.

¹¹ Kępińska E., *Recent trends...op.cit.*



aid.¹² For example, between 1998-2003, 3,992 persons (1,531 families) settled in Poland on account of repatriation.¹³ Both repatriates from the former Soviet Union and refugees seem to have problems connected with settlement in the new homeland (cultural, language problems, difficulties in finding new job, etc).¹⁴

For the majority of immigrants, Poland is not a place to settle. Therefore, they would never become clients of Polish social services or become a burden for social security or the education system. Those who settle in Poland usually do it because of family ties, a lack of contacts or resources to migrate further or because of stricter immigration policies in other countries. The situation that seems to cause the most problems is this decision not to settle in Poland, but to stay temporarily. They do not want to integrate and this strategy sometimes causes tensions with local communities.

The last groups that ought to be mentioned are national and ethnic minorities.¹⁵ According to official data, there are 13 minority groups living in Poland¹⁶ and they constitute 1.23% of the Polish population.¹⁷ The contexts in which the old national minorities appear suggests that in some cases they should be analysed together with migrants when it comes to the issue of discrimination based on 'otherness' (especially analysing the Roma ethnic minority). It is because of their prominent distinctiveness - different style of living, appearance and social status - representatives of chosen minorities tend to have the same or similar problems in Poland as migrants in other countries. Because of the small number of minorities, both old and new, Poland is perceived as a homogenous country without serious national-ethnic conflicts.

Attitudes towards non-Poles living in Poland

According to public opinion surveys, at the beginning of the 1990s, Poles declared relatively strong xenophobic positions.¹⁸ Today, a positive attitude towards the migration prevails in Polish society.¹⁹ More intensive contacts (incl. seasonal migrations, petty trade and trade exchange in general) influenced the decrease of negative attitudes as stereotypes were confronted with experience of direct contacts. Generally, there is more positive attitude for representatives of developed countries associated with political and economic reforms. Also, according to press analysis, nowadays foreigners are perceived as a less important threat than in the 1990s.²⁰ More attention is paid to their economic activity and life in Poland²¹.

¹² Act on Repatriation of 9 November 2000 (Journal of Laws 2000, No 106, item 1118).

¹³ Source: Office for Repatriation and Aliens, www.uric.gov.pl.

¹⁴ Hut P., *Warunki życia i proces adaptacji repatriantów w Polsce w latach 1992 – 2000*, Institute of Social Policy, Department of Journalism and Political Sciences, University of Warsaw, 2002.

¹⁵ In Poland the Act on National and Ethnic Minorities and Regional Language defines national minorities as a minority residing in the Republic of Poland for at least 100 years thus excluding ethnic minorities who have arrived more recently, like Vietnamese.

¹⁶ Poland is inhabited by the representatives of 9 national minorities: Belorussians, Czechs, Lithuanians, Germans, Armenians, Russians, Slovaks, Ukrainians, Jews and 4 ethnic minorities: Karaites, Lemkos, Roma and Tartars. Further in Pomorskie province there are Kaszubs - the community which uses regional language. They are recognised by the Act on National and Ethnic Minorities and on Regional Language from 6 January 2005, Journal of Laws No 17, item 141.

¹⁷ Source: Main Statistical Office, National Census 2002.

¹⁸ Weinar A. *Tak daleko stąd, tak blisko – europeizacja a integracja legalnych imigrantów, uchodźców I repatriantów* in: Iglicka K. (ed) *Integracja czy dyskryminacja? Polskie wyzwania i dylematy na progu wielokulturowości*, Institute of Public Affairs, Warsaw 2003.

¹⁹ Wenzel M., *Societal attitudes towards foreigners living in Poland*, in: Kurczewska J. and others, *Socio-political developments and impacts. The European Dilemma: Institutional Patterns and Politics of 'Racial' Discrimination*, Institute of Public Affairs, Warsaw, 2005 (unpublished).

²⁰ Besides the growing fear of terrorism which is not very significant because of lack of visible Muslim minority (JF/MB).



However, pessimistic attitudes connected with economic decline might tense the relations, conflict of interests and radicalise the feelings about foreigners.²² The fact, that there were no serious conflicts between Poles and immigrants is probably at least partially due to the relatively low number of foreigners living in Poland. It is also connected with a general sympathy towards immigrants caused by migrations of Poles to Western countries today and also the memory of their massive emigration in the past, during Communism and in 19th century.²³

On the basis of opinion poll surveys from 1999 and 2004, we might state that Polish society tends to see the presence of people from the developed countries of the West, Czechs and, to a lesser extent, Lithuanians, as beneficial. The plurality (in case of Arabs the majority) considers the presence of the citizens of the former USSR, Vietnamese, Turks, Arabs and people coming from Africa as detrimental for the country.²⁴ Considering the general attitude towards other nations, according to the recent opinion polls by CBOS, Arabs and Roma are the most unliked nations. Arabs are not liked by 70% of Poles, and Roma- by 65%. Also the strength of antipathy to these nations is the greatest. Among the most liked nations, there are Americans, British, and Italians.²⁵

In the years 1999-2004, the perceived balance of costs and benefits from the presence of migrants has generally and positively changed. The opinions about the people from the countries of the former USSR, Czechs, and the Vietnamese improved, while the opinions about the people from the developed countries changed very little.²⁶

The perception of the overall balance of costs and benefits from the presence of immigrants is dominated by their (perceived) economic role.²⁷ On the other hand, the importance of cultural exchange is noted much more often. The view that foreigners may be a source of crime and anarchy is decreasing but the fear that they might be terrorists has risen. The negative opinions about immigration and immigrants are internally contradictory. On the one hand, Polish people overwhelmingly believe that everyone should have the right to come and settle in Poland; on the other hand they believe Poland does not need these people. They accept the principle, but see no interest in its implementation.²⁸ Another important feature of the public perception of immigrants is a relatively small role of cultural and racial differences in relations with foreigners.²⁹ But the issues connected with tolerance and xenophobia tend to change over time and have varied throughout the 1990s' in Poland.

To sum up, with the increase in contacts between Polish people and foreigners, the acceptance of people from other countries rises.³⁰ On the other hand, while 62 percent of Poles accept immigrants settling in Poland, 80 percent do not think Poland needs

²¹ Mrozowski M., *Obrazy cudzoziemców i imigrantów w Polsce w prasie polskiej*, in: Iglicka K. (ed) *Integracja czy dyskryminacja? Polskie wyzwania i dylematy na progu wielokulturowości*, ISP, Warszawa, 2003.

²² Jasińska – Kania A., Morody M (ed), *Polacy wśród Europejczyków*, Scholar, Warsaw, 2002.

²³ Koryś I., *Immigration Trends in Selected Applicant Countries*, in: *Dilemmas of a sending and Receiving Country, Volume III – Poland*, International Organisation for Migration, 2004; Kurczewska J. and others *Discourse Analysis of Politics The European Dilemma: Institutional Patterns and Politics of 'Racial' Discrimination*, Institute of Public Affairs, Warsaw, 2005 (unpublished).

²⁴ Wenzel M., *Societal attitudes...op.cit.*

²⁵ Public Opinion Research Centre, Report from December 08, 2005.

²⁶ The findings are based on public opinion surveys conducted by Public Opinion Research Centre in Warsaw, available at: www.cbos.pl.

²⁷ Wenzel M., *Societal attitudes...op.cit.*

²⁸ *Ibidem*.

²⁹ Koryś I., *Immigration Trends...op.cit.*

³⁰ Comparative research conducted within the framework of European Social Survey shows that Poles are more open to immigration compared to most other EU societies. For extensive analysis, see publication *Attitudes towards Migrants and Minorities in Europe* of European Monitoring Centre on Racism and Xenophobia, www.eumc.eu.int.



immigrants.³¹ Polish society sees benefits in the presence of persons from Eastern and Central European countries; foreigners on the labour market are generally accepted even by the people who work in the same sectors as they do and who are affected by their competition.³²

3 Foreign Labour Market in Poland

The employment of immigrants practically did not exist before the end of the 1980's. It was due to an insignificant number of foreigners coming to Poland and the situation of the country under a Communist regime. Until this time, only migrants with a permanent residence permit and those who came on the basis of bilateral agreements worked in Poland. For the last 16 years, the Polish system of employment of immigrants has been evolving in a more open direction despite the fact that one of its main aims has been the protection of the domestic labour force.³³ The growing number of immigrants active on the Polish labour market proves that despite disadvantageous procedures of employment there is a demand for their work. Today, the **legal employment** of foreigners reaches approximately 40 thousand and constitutes a relatively small percentage of the total employment of immigrants.³⁴

Similarly, to EU countries, the Polish labour market can be divided into primary and secondary sectors. The primary market is reserved for professionals and experts as well as teachers of foreign languages and is characterised by high salaries and mobility. The secondary market does not require any special skills and qualifications and it includes manual work, petty-trade, simple services, etc.³⁵ – activities that are not particularly attractive for Poles. It is dominated by the people who work without required work-permits. These niches include primarily low paid jobs not demanding special knowledge and skills. In Poland, they are filled by immigrants, mainly from Eastern European countries.

Despite the growing number of immigrants present on the Polish labour market, no complex system of managing economic migrations has been established. The solutions in place respond to current problems or are implemented as a consequence of obligations connected with adjusting to Polish laws or to EU standards.³⁶ Being a post-Communist, 'transition economy country' (low wages comparing to other EU countries, close to 20% unemployment, inefficient bureaucracy) makes Poland, a not very attractive place for immigration; moreover, the present economic situation pushes a considerable number of Poles themselves to migrate abroad in search for work (mainly to Western Europe, USA and Canada). In 2005, Poland has still been a sending rather than receiving country when it comes to labour migrations. This situation is changing very slowly and may distract potential immigrants from coming to Poland in the future.³⁷

³¹ Wenzel M., *Societal attitudes...op.cit.*

³² Bieniecki M., Bojar H., Gąsior-Niemiec A., Pawlak M., *Migranci na rynku pracy w Polsce. Wyniki badań przeprowadzonych wśród migrantów ekonomicznych i pracowników polskich*, Institute of Public Affairs, Warsaw 2005.

³³ Iglicka K., Olszewska O., Stachurski A., Żurawska J., *Dylematy politykimigracyjnej Polski*, ISS, UW, Working Papers, 2004.

³⁴ That is approximately the number of foreigners who legally reside in Poland. Polish labour offices issue approx. 20 thousand work permit a year, and some foreigners (from EU countries, married to Poles, conducting certain jobs, etc) do not need these permits.

³⁵ Iglicka K. *Ethnic Division...op.cit.*; Duszczyk M., Korczyńska J. *Zapotrzebowanie na pracę...op.cit.*

³⁶ Frelak J., *Ukrainians on the Polish Labour Market – recommendations for migration policy*, Analyses and Opinions, Institute of Public Affairs, Warsaw, 2005.

³⁷ Compare: Koryś P., A. Weinar *Immigration as a labour market strategy – European and North American Perspectives*, Migration Policy Group, Brussels; also: Bieniecki M., Bojar H., Gąsior-Niemiec A., Pawlak M., *Migranci na rynku...op.cit.*



Classification of immigrants working in Poland

Immigrants, can be classified according to their national origin, race, legal status, time and place of residence, etc. In order to classify immigrants working in Poland, the modified categorisation of new minorities of Western Europe presented by Thomas Pettigrew was chosen as it broadly reflects the situation of Polish foreign labour market. He divides these minorities for seven categories: **National migrants**; **Citizens of EU**; **Ex-colonials** (In the Great Britain referred to as 'new commonwealth peoples', who seem to be the biggest burden for Western European societies because of their different religion, culture and races, Poland lacks this category whatsoever); **Recruited workers from non-colonial countries** (*guest workers, Gastarbaiter*); **Refugees and asylum seekers**; **Accepted illegal immigrants** (as T. Pettigrew puts it 'those who, while not legal, are known to authorities and tolerated as long as they are economically useful. Polish construction workers in Germany and African harvest workers in Italy are two examples. These groups are vulnerable to the whims of officials and the economy, and they receive no social welfare benefits.');

Rejected illegal immigrants 'who are the true *illegals* since there is no perceived economic need for them, authorities often deport them'. Organised criminal groups from Eastern Europe and Russia are often in this group. Many generalise justifiable opposition to such groups into opposition to all immigrants.³⁸

The presented typology may be complemented with one specific to the position of immigrants in the Polish labour market. According to this classification, the immigrants can be divided into following categories:

1) Citizens of former Soviet Republics (especially Ukrainians and Byelorussians) who are employed in the secondary sector (construction, agriculture cross-border petty-trade and home services (cleaning, cooking, baby-sitting, etc.). A characteristic feature of this employment is the fact that low – skilled immigrants choose a pattern of shuttle migration.³⁹ Besides their niche character, some of the factors that explain a large share of immigrants from neighbouring Eastern countries in these sectors are: geographical proximity, an easy access to the country (cheap or free as in the case of Ukrainians, multiple entry visas), well developed migratory networks, etc.⁴⁰ This group is most likely to be exposed to discriminatory practices and they most closely relate to the category of **accepted illegal immigrants**.

2) Immigrants from Asian countries (mainly from Vietnam) who are employed in niches such as ethnic fast food bars, textile trade. The marked development of Vietnamese diaspora was possible because of presence of migratory pioneers that immigrated to Poland before 1989 and established well grounded social networks.⁴¹

3) Immigrants from Western European countries, USA and Canada (supplementing T. Pettigrew's category of EU citizens) who come to Poland in response to needs for highly specialised skills (financial services, insurance, banking, managers, experts, etc). They are often referred to as *expats*. These flows into the primary sector are mostly institutionalised and long term. This group includes persons arriving to international companies, together with

³⁸ Pettigrew T. F., *Reactions Toward the New Minorities of Western Europe*, in: Annual Review of Sociology 1998.

³⁹ Golinowska S., (ed.) *Popyt na pracę cudzoziemców. Polska i sąsiedzi*, Institute of Labour and Social Affairs, Warsaw 2004.

⁴⁰ See also: Bieniecki M., Bojar H., Frelak J., Gašior-Niemiec A., Kurczewska J., Pawlak M., *Regulacja migracji zarobkowej – wyzwania dla Ukrainy w kontekście polskich doświadczeń*. Institute of Public Affairs, Warsaw 2005, Kaźmierkiewicz P., Korczyńska J., *Doświadczenia Polski po roku 1989 jako kraju wysyłającego i przyjmującego pracowników: lekcje dla Ukrainy*, Institute of Public Affairs, Warsaw, 2005.

⁴¹ Koryś I., *Immigration Trends...op.cit.*



foreign capital investments, in the course of processes of globalisation and European integration. Sometimes these jobs are also taken up by immigrants from Eastern countries, associated rather with the first group. The high qualifications of most of the foreign employees are reflected in statistics that show that only 11% of them have primary and vocational education only.⁴²

4) Other immigrants, such as Africans and South-Americans that immigrated to Poland before 1989. This group includes educational exchanges and pre-1989 political refugees. They are usually well educated (e.g. pharmacist and doctors, in recent years also a few popular sportsmen).

Among the above-mentioned segments of migrant concentration, the labour market is completed by self-employed migrants seeking niches and taking advantage of their 'outside' nature. Such immigrants are active in the restaurant business, detail trade, para-medical practices, etc.⁴³ In the cases of both classifications, one should have in that 'the fuzzy boundaries of these types overlap (...).'⁴⁴

Employment of immigrants – legal framework

There are approximately 40 thousand foreigners legally working in Poland. The fundamental regulations of employment of immigrants are foreseen by, the Act on Promotion of Employment and Institutions of the Labour Market with the later changes.⁴⁵ It describes the procedure of obtaining work permit as well as defines which group of foreigners has free access to the labour market. Other legal documents also classify foreigners that do not need to obtain work permits. The list is constantly growing and includes e.g.: EU citizens, foreigners-family members of Polish citizens, foreigners having settlement permit, recognised refugees, immigrants performing jobs on the ground of international agreements and other groups according to bilateral and international agreements.⁴⁶

People who can apply for a job permit might be generally divided into three groups: the first one includes foreigners who are considered to be the asset for potential employers (specific skills, knowledge). In this situation they do not take part in the procedure and the whole bureaucratic burden lies on the employer. The second group comprises foreigners working in sub-contracting foreign companies; the third is a group of immigrants coming to Poland on their own to establish companies or seek self-employment.⁴⁷

As mentioned before, the regulations concerning the employment of foreigners in Poland are aimed mainly at the protection of the domestic labour force. The procedure of obtaining work permits is complicated and time-consuming which is perceived as a barrier to entering the Polish labour market by foreigners. The selection of an employee is employer-driven, aiming at the protection of the labour market suffering from a high unemployment rate and at controlling the demand.⁴⁸ The official procedure includes first of all the verification of whether or not there is a native (Polish) candidate who meets the requirements of the employer and who is ready to perform the offered job. Another barrier for the employment of foreigners is a fee that must be paid by an employer. It equals a minimum wage (at the moment about 200

⁴² Iglicka K., *Ethnic Division...op.cit.*

⁴³ Foreign migration in the years 1988-2002' Main Statistical Office, www.stat.gov.pl .

⁴⁴ Pettigrew T. F., *Reactions Toward...op.cit.*

⁴⁵ Act on Promotion of Employment and Labour Market Institutions of 20 August 2004 (Journal of Laws 2004, No 99, item 1001).

⁴⁶ E.g.: Roporządzenie w sprawie wykonywania pracy przez cudzoziemców bez konieczności uzyskania zezwolenia na pracę from 9 February 2004 (Journal of Laws 2004, No 27, item. 238).

⁴⁷ Samoraj B., *Równość w dostępie do rynku pracy dla cudzoziemców w Polsce*, Institute of Social Policy, Department of Journalism and Political Sciences, University of Warsaw, 2005 (manuscript).

⁴⁸ P. Koryś, A. Weinar *Immigration as...op.cit.*



Euro) for each new work permit and half of it for prolonging. These measures do not allow potential employers to respond flexibly to the company and market needs, as each application must be officially accepted by the local state office responsible for the employment of foreigners. The additional requirements (like extra documents) are not clearly defined and make the employment of a foreigner not attractive.

This leads to the situation when many employers who would like to legally hire foreigners are immediately discouraged by existing procedures and conditions they would have to fulfil.⁴⁹ In the construction and domestic help sectors, as well as agriculture, not only is the hiring of foreigners a cumbersome procedure itself but also problematic as the temporary character of these jobs does not motivate either clients or migrants to legalise work.⁵⁰ Besides that, high taxes and social security charges also dissuade them from taking up legal work. These problems are not considered unique for immigrants as they also discourage many Poles from legalising their employment. Moreover, in the case of migrants, the legal procedure decreases their competitiveness compared to other candidates.

Migrants working in Poland illegally undergo a different self-selection process.⁵¹ Low-skilled workers find work through illegal 'job markets' using well-developed migratory networks.⁵² Selection for unregistered work is based on trust; the immigrant worker can find a job on condition that connections and informal groups support her/him. Similar situations can be observed in the branches dominated by a specific ethnicity, e.g. Vietnamese, whose culture is based on close relations, family/community-alike organisation. However, foreigners finding work in the so-called 'grey zone' of the economy constitute only a fraction of the total number of 'illegal' workers in Poland. The 'grey zone' is dominated by 'native Poles' and according to careful estimates of the Polish Main Statistical Office it gives a job to over 900 thousand Poles and produces about 14.3 percent of the country's GDP.⁵³ Polish Confederation of Private Employers estimates these numbers even higher.⁵⁴

As far as unemployment among migrants is concerned, there are no reliable statistics, which would provide definite evidence on this issue (which is obvious, as foreigners usually cannot register as unemployed). The lack of respective research/analysis derives from the fact that the number of legal migrants is still insignificant in Poland compared to the total legal population of Poland. It can be assumed that the lack of unemployed foreigners results, also from the fact that they leave the country when they finish employment, or do not find any work.

4. Discrimination issue on the labour market

Combating various forms of discrimination is one of the foundations of a democratic state of law. The rule of equal rights and non-discrimination is also one of the basic norms of international rights law. It has been enshrined in the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, European Convention for the Protection

⁴⁹ Bieniecki M., Bojar H., Gašior-Niemiec A., Pawlak M., *Migranci na rynku...op.cit.*

⁵⁰ *30% of people who employ foreigners as house-help uses their services occasionally, 16% once or twice in a month, and next 16% - once a week*, Golinowska S., (ed.) *Popyt na...op.cit.*

⁵¹ P. Koryś, A. Weiner *Immigration as...op.cit.*

⁵² Stola D., *New Migrations to Poland*, in *From Homogeneity to Multiculturalism. Minorities Old and New in Poland*, in: Hamilton I., Iglicka K., (ed), School of Slavonic and East European Studies, 2000; Bieniecki M., Bojar H., Gašior-Niemiec A., Pawlak M., *Migranci na rynku...op.cit.*

⁵³ Statistics of the Main Statistical Office, c.f.: *Szara strefa ma się świetnie*. Puls Biznesu. March 12, 2004; <http://www.pb.pl/content.aspx?sid=2284&guid=f4b5b11f-3a3f-4faf-9819-c14f9888c6b9> .

⁵⁴ Kabaj M. *Zatrudnienie w szarej strefie. Fakty, tendencje, mity i nieporozumienia. Cz. 1.*, www.mgip.gov.pl .



of Human Rights and Fundamental Freedoms.⁵⁵ Poland does not seem to violate these rules.⁵⁶

Anti-discriminatory regulations do exist in many documents of the Polish legal system. The Polish antidiscrimination law is enshrined in the 1997 Constitution⁵⁷ and within a scope of other laws. The most detailed anti-discrimination provisions exist in the employment area, in particular the Labour Code and the Penal and Civil Codes. Articles of the Polish Criminal Code provide for the punishment of hate crimes. The amended Polish Labour Code and the amended Act on Employment generally provide a good coverage of the scope of the two relevant directives (2000/43/EC and 2000/78/EC). The equal access to the professional counselling and training is regulated by the Act on Promotion of Employment and Labour Market Institutions from 20 August 2004. On 6 January 2005 the Act on National and Ethnic Minorities and on Regional Language came into force. Nevertheless, there are shortcomings, which need to be tackled. For example, although Poland almost finished incorporating the EU anti-discrimination provisions in its legislation, no state body prohibiting racism and discrimination in all fields of life was established.⁵⁸ On the other hand, positive changes have been seen recently, for example, the National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance foresees the monitoring and analysis of the prosecution practices concerning racial discrimination, xenophobia and establishing a system for registering offences. The negative aspect of that is the fact that police is reluctant to take racist motive of the crime into account. Only rare discrimination cases are brought to court due to the low legal awareness of Poles and negative attitudes towards the judicial system.

The concept of discrimination seems to be a term devoid of a clearly defined equivalent in the public discourse. Although part of Polish society reveals mixed feelings towards the presence of immigrants, there are not many opponents to foreigners. On the other hand, there is an indifference in Polish society which can be described as a silent consent to racist jokes, xenophobic publications and offensive slogans on walls, although such acts are not frequent. Incidents during which people are attacked and beaten because of their skin colour happen rarely in Poland as pointed by an officer at the Office for Repatriation and Aliens. However, it was also stressed that existing statistics in this sphere are perceived as underreported and incomplete.⁵⁹ In the case of physical attacks, inappropriate reaction of police is sometimes underlined. The passive and negative behaviour in such cases might make elimination of discrimination difficult. As racial 'otherness' is not perceived as important in the opinion of Poles, acts of discrimination are rather connected with ignorance. Such behaviour might be connected with the 'exotic' appearance of a foreigner or negative stereotypes.⁶⁰ This phenomenon is often described as 'facade tolerance,' that is a surface tolerance rather than a deeply internalised tolerance and openness to diversity.⁶¹ The regulatory mechanisms to combat manifestations in media were introduced although racist statements and racist incidents still occur.⁶²

⁵⁵ *Concerning needs for improvement of Polish anti-discrimination policies*. Twinning Project Poland – Austria, Ludwig Boltzmann Institute für Menschenrechte, 2003.

⁵⁶ e.g. European Commission Against Racism and Intolerance, Third Report on Poland, 2004.

⁵⁷ Journal of Laws No 78.

⁵⁸ European Commission Against Racism and Intolerance, Third Report on Poland, 2004.

⁵⁹ Interview with the expert of Ministry of Interior and Administration.

⁶⁰ Weinar A. *Tak daleko...op.cit.*

⁶¹ Grzymała-Kazłowska A., Okólski M., *Influx and Integration...op.cit.*

⁶² European Commission against Racism and Intolerance, Third Report on Poland, 2004.



Discrimination at work

The immigrants that find employment either in the primary or secondary segment might be the subject of negative national and ethnic stereotypes or be perceived as a threat to the labour market. The first group might incite a fear because of new methods of work or management while the latter can be associated with the illegal employment and all related pathologies. The status of either group may be subject to discontent, animosity and xenophobia, which could lead to discrimination and inequalities on the labour market in the future.⁶³

The issue of discrimination of migrants seems to become an important element of European research on migration. Yet, the problems of migrants in Poland tend to be rather specific when compared to the old EU members. The cases of discrimination on the labour market include for example: priority law or regulation access to the public institutions only for natives, restrictive naturalisation law, title (non) recognition. Institutional discrimination is described as routine, systematic discrimination and exclusion of particular categories of people: denial of opportunities, respect, rights available to host population. In some countries belief patterns play important role in excluding even second and third generations of migrants while in Poland restrictive laws concerning employment of non-Polish citizens dominate.⁶⁴ Analysing the direct and indirect discrimination in Poland one may draw a conclusion that the second one is more prevalent in Poland. It is, however, difficult to say that discrimination is inherent in the state system in Poland, in law and regulations, rules operating in work places or schools, political parties, etc.

Immigrants asked about the cases of discrimination in Poland rarely complain about permanent and reoccurring discriminatory practices. Most often they state that it is difficult to directly point symptoms of intolerance and refer to incidents or particular conflicts in which both sides were equally active.⁶⁵ Some immigrants reported being subjects of veiled allusions and sarcastic remarks.⁶⁶

Also, it was pointed that discrimination was integrated with certain elements of social policy of the state concerning persons with refugee status and tolerated stay: the programmes for these people do not provide effective integration into Polish society and leave them in an inferior position in the labour market compared to Polish citizens.⁶⁷ In some sense, refugees are the only group that resembles immigrants from the African and Arab countries living in major Western-European cities. However, some very important differences should be underlined: these groups are much smaller in Poland (the total number of refugees and people awaiting for refugees status barely exceeds 14 thousand, vast majority of whom are Chechen) and, unlike in western countries, they are the first generation of migrants, the factor which determines the different problems of their functioning in Polish society.

During the Get-in research no instance of formal accusations, judicial trial or court verdicts in the case of discrimination against a migrant worker was encountered. The cases monitored by the nongovernmental sector and Polish Ombudsman concern rather different issues.

The discriminatory treatment of migrants on the labour market depends on their status (temporary permit, settlement permit, legal stay and illegal work, etc), country of origin, education and experience and existence of migratory networks in Poland. All of these factors

⁶³ Samoraj B., *Równość w dostępie...op.cit.*

⁶⁴ Flam H., Beauzamy B., *On the Institutional and Agentive Discrimination*, presentation in the DG Research, Brussels, 2005.

⁶⁵ Kurczewska J. and others, *Institutional Discrimination, The European Dilemma: Institutional Patterns and Politics of 'Racial' Discrimination*, Institute of Public Affairs, Warsaw, 2005.

⁶⁶ Such information can be derived i.e. from interviews with immigrants conducted by the authors of this report.

⁶⁷ Interview with the leader of Proxenia Association for the Integration and Protection of Foreigners.



influence their performance on the labour market. According to the materials collected in the text, the following spheres of possible discrimination can be identified:

- Legal regulations, labour mediators and offices
- Attitudes of clients, co-workers, and employers
- Access to the particular posts and their characteristics
- Stereotypes, cultural difference and social distance

Legal regulations, labour mediators and institutions

In Poland, as in many other countries, laws and regulations may have a discriminatory character as they bar everybody from the access to the labour market. These regulations are not directed against members of any particular nationality, race or ethnic group but they are aimed at protection of the national labour market. Foreigners have to deal with difficult procedures of getting work permits while many employers simply do not know what the legal framework for hiring a migrant worker is. It is often inefficient to make an extra effort to employ migrants and as a result either migrants are hired illegally or not employed at all. However, that is not the problem of openness or closeness which makes employment difficult, but it is rather the high cost and numerous difficulties related to the legal procedure of employing of foreign worker. Some positive tendencies in the procedure of granting the work permit have been recently observed. The regulations were not changed and still protect the Polish labour market but the legal practice makes receiving work permits easier to get jobs.⁶⁸

We can point out the following Polish regulations concerning the employment of foreigners that have negative characteristic:

- complicated procedure of employment
- short term of employment permit provided by law and only for a particular post and company
- high risk of refusal
- necessity to deliver numerous documents with each application and relatively high fees for work permits

Self – employed immigrants usually complain about the procedures that their previous employers had to go through in order to obtain a work permit for them. Working on their own, they do not feel discrimination, and the procedures are simpler. They have their own fields of expertise and specialisation.

In very specific cases, it might not be profitable to employ migrants but is not connected with the procedure or with ethnic prejudice. For instance, a Polish company interested in commercial relations with Russia would probably not want to hire a person with a Chechen background. According to the employee, as a labour mediator, it would be absolutely justified: the priority for the company is to eliminate the factors that may decrease the profits.⁶⁹

Attitudes of clients, co – workers and employers

The relation between Poles and immigrants at work is of a very specific nature. First of all, as this is an employer who applies for a work permit for a foreigner and this procedure results in the fact that only those who are willing to go through the procedure do apply; those who

⁶⁸ ibidem

⁶⁹ Kurczewska J. and others, *Institutional Discrimination...op.cit.*



discriminate against foreigners would not apply on their behalf at all. Moreover, since foreigners can be hired only to supplement domestic labour force, they are treated by the employer preferentially right from the beginning.

The attitudes of clients or other employees to the employment of immigrants are generally positive. Conflicts at work are treated as clashes of characters, etc. In some cases, being of certain ethnicity can be an advantage, e.g. when dealing with ethnic food or in the multinational companies which employ some foreigners when they aspire to better their positions on the market. Thus, it should be pointed out that the demand for legal employees with migrant background is formed mostly by companies with the foreign capital. However, in recent years, a process of reducing the number of foreign employees (usually high managerial staff) can be observed in companies with the foreign capital which is considered to be a natural process, related e.g. to the growing number of trained Poles.

At the same time, the low awareness of the actual situation of migrants on the labour market might negatively affect the public climate. Although, the absorption of migrants is generally characterised as a supplementary, some perceive immigrants to be competitors.⁷⁰ Analysis of certain niches in which migrants are situated shows that while this perception is not common, there is a fear that they may contribute to the lowering of wages in certain sectors, e.g. industry or gastronomy. In the case of gastronomy, unfair competition (such as non-adherence to sanitary regulations or illegal work) was mentioned relatively often by Polish entrepreneurs in this sector.⁷¹ This attitude towards immigrants on the labour market marked with fear and insecurity can be attributed to several factors: the high unemployment rate in general, significant number of foreigners in top positions, frequent daily contacts with migrants occupying street retail, gastronomy and growing migrants activity in shady sectors. At the same time, numerous research shows that foreigners do not constitute any significant threat for Poles on the labour market, even in the sectors where their presence is noticeable.⁷²

Access to particular positions and their characteristics

According to many studies migrant workers tend to have low skilled, low-paid and low status jobs, even though having appropriate qualifications and education. As in many other countries, immigrants in Poland may find themselves in a situation when they have to accept work below their qualifications or for a lower salary. According to the opinions of migrants gathered during the Get-in Project and a few other research projects⁷³ immigrants generally do not have problems in finding employment in Poland. Nevertheless, Poland seems to be at a stage of economic development in which its market segmentation corresponds to the labour force condition. For many migrants accepting low-status and low-paid jobs is a result of their own economic decision taken for very specific reasons (e.g. academic lecturer working as a plumber during a summer holiday or medicine doctor taking care of old people).⁷⁴

Working below qualifications may also be the result of objective factors, such as: a lack of linguistic competence which is quite common in the case of refugees not fluent in Polish along with a lack of appropriate education and/or experience. Additionally, people with refugee status are perceived as 'uncertain' candidates, since very often they leave the country as soon as there is a chance to emigrate further West. This example shows rather

⁷⁰ Golinowska S., (ed.) *Popyt na...op.cit.*

⁷¹ Bieniecki M., Bojar H., Gašior-Niemiec A., Pawlak M., *Migranci na rynku...op.cit.*

⁷² *Ibidem.*

⁷³ E.g. Kurczewska J. and others, *Institutional Discrimination... op.cit.*, Bieniecki M., *Migranci na rynku... op.cit* and others.

⁷⁴ Kurczewska J. and others, *Institutional Discrimination...op.cit.*



flaws in the integration strategies that do not prepare them to perform on the labour market than the discriminatory attitudes of potential employers.

Analysing the presence of migrants in certain sectors one may say that no one sector in the Polish economy is closed to migrants; however, various regulations practically exclude foreigners from seeking employment in the public sector. Only Polish citizens are entitled to work in civil service in Poland, though this regulation appears justifiable, especially that there are no obstacles for naturalised immigrants to enter it (there are a few foreign-born mayors and even a member of parliament). It should be stressed that they do not regard this sector as a target. There is also a considerable group of highly qualified foreign experts providing advisory services for public administration. The number of foreigners in the public sector has increased 6 times during last decade reaching approximately 2 thousand in 2002 (it can be assumed that most of them were foreign-language teachers, mostly from Ukraine).

Taking into consideration the level of salaries, in the case of illegal work lower salaries make the migrants competitive while legal workers enjoy wages that are comparable or even higher than those of Poles. For example, teachers in public schools receive similar remuneration as Poles depending on experience and probation. Accordingly, native speakers' salaries are higher due to the place they work and fact that it is their mother tongue, but their position on the market is more uncertain and temporary. Thus, migrants are not treated worse in this sector and sometimes even more favourably.

Concluding, according to most of the interviewees, it is the high level of unemployment in Poland rather than discrimination that is the reason why qualified immigrants might have to 'lower their expectations' and take up unqualified or low-status jobs and positions, especially that the same problem also concerns many educated Poles.

Stereotypes, cultural difference and social distance

Polish society is believed to be open to foreigners/migrants on the labour market. However, the knowledge of them and any other migrants is very superficial and limited. Stereotypes in the workplace, visible in the media or TV are still present, and many Poles are well aware of that fact.

Generally, stereotypes are regarded as playing a minor role in recruitment procedures. Employment agents admit that both positive and negative ethnic and national stereotypes appear on some occasions at workplaces. Appearance, such as ethnic features might be both an advantage and disadvantage. For instance, immigrants from the West are considered well educated and well mannered as a rule, while those from the East – just the opposite. Ukrainians were often associated with criminal activities of the mafia, although on the other hand they were also believed to be cheap and reliable labourers.⁷⁵ There are also some other stereotypes, which sometimes influence negatively the first contact with clients, e.g. a Russian accents. These cases illustrate the theory that acceptance and attitude depend on factors such as: general perception of economic migration, estimation of costs and benefits, perception of country of origin and state of public opinion on wider issues.⁷⁶ It is also closely connected with the stereotypes of nations and ethnic groups and proves the existence of negative and positive ones. Perception of the Vietnamese community is a good example of seeing the migrants in the context of their activities in Poland rather than their physical experience. As they are associated with ethnic food and petty trade they are often

⁷⁵ *Ibidem.*

⁷⁶ Łodziński S., *Acceptance, Distance and Threat: Some Issues in the Public Acceptance of Foreigners in Poland in the 1990s*, in: Iglicka K. (ed) *Migration and labour markets in Poland and Ukraine*, Institute of Public Affairs, Warsaw 2003.



described as hardworking, operative or entrepreneurial but on the other side also cunning and smart.⁷⁷

The stereotype of the Roma minority belongs to the most negative ones in Poland. But still, this group is neither so numerous nor so underprivileged as in other countries (Slovakia, Hungary) to become a point of concern of nation-wide social policy. The existing policies are implemented rather as a result of EU pressure than as a respond to some particular problems with Roma in Poland.⁷⁸

Some experts pointed to cultural differences, which limit easy adaptation by some nations' representatives to the work ethic in Poland. This situation seems to concern in particular immigrants with Islamic background. Moreover, because of 'cultural reasons', some employers may fear that an immigrant may cause trouble at work, not being accepted by other workers or being despised by them. But co-workers do not find cultural differences negatively influencing atmosphere at work and quality of work conducted by them.⁷⁹

Some negative opinions expressed in the research focused on the gastronomy sector. Respondents, especially from Muslim countries complained about being associated with terrorism and fundamentalism. However, when Poles know migrants personally and maintain contacts, e.g. have a migrant house maid or neighbour, the attitude changes. This proves the discrepancy between general – not very positive attitude towards migrants and relations with real persons, especially when they realise that migrants concentrate in the niches and do not constitute any serious threat to the labour market. .

To conclude one may say that the migrants encounter some symptoms of discrimination but the phenomenon is rather connected with inflexible and imperfect state system of dealing with non-Poles. Single cases of discrimination of immigrants are unavoidable and do appear, but most of the experts agree that a phenomenon of active discrimination is not a significant social problem in Poland.⁸⁰ In context of negative attitudes towards many other issues the negative attitude towards immigrants in general appears as relatively low and insignificant (*like in Australia, where there is much more prejudice against politicians, feminists and (then) president of the US than against immigrants*).⁸¹

Migrants also worked out their own strategies of dealing with the Polish system of employment and regulations that impair their position on the Polish labour market. Among the observed strategies, we can point self-employment. It is a way of avoiding the procedure of legalisation of employment, when existing regulations make legal employment of non-Polish citizens very complicated.⁸² Another strategy is to improve linguistic skills (as a method of avoiding being recognised as a foreigner – this concerns especially migrants from

⁷⁷ Halik T., Nowicka E., *Wietnamczycy w Polsce. Integracja czy Izolacja*, Oriental Institute, University of Warsaw, 2002.

⁷⁸ The examples of the Roma programmes are: Government Programme for the Roma Community in the Małopolska Province (2001 – 2003), "Run From Exclusion. Reinforce Roma Education" project in Poland, implemented by the Integration Association in cooperation with the Roma school in Suwałki.

⁷⁹ The cultural and political similarity to Polish society, previous conflicts and alliances between that nation (ethnic) group and Poles, and the presence and image of the nation/ethnic group in the Polish mass media play important role too. Łodziński S., *Acceptance, Distance...op.cit.*

⁸⁰ Compare: Bieniecki M., Bojar H., Gąsior-Niemiec A., Pawlak M., *Migranci na rynku...op.cit.*, Kurczewska J. and others, *Institutional Discrimination...op.cit.*

⁸¹ Evans M.D.R. and Kelley J., *Prejudice, Discrimination, and the Labour Market: Attainments of Immigrants in Australia*, in. Australian Sociological Journal Vol. 97 no.3, 1991.

⁸² Self-employment is a very popular form of employment in Poland.



the former Soviet Union) and refrain from discriminative behaviours. Also, using the help of colleagues or organisations assisting migrants should be mentioned.⁸³

5. Migration debate in Poland

Although the migration flows to Poland are relatively recent, they are occasionally present in the public debates. Such occasions took place i.e. when the issue of introducing visas for Ukrainians, Russians and Byelorussians was discussed or during pre-EU accession debates. Nevertheless, in the situation of a lack of a significant number of immigrants (legal and illegal) and relatively small number of 'problematic' issues related to immigrants and immigration, it is difficult to talk about a comprehensive debate in Poland that would be comparable to discourses found in Western European countries. The traces of such discourse are rather focused on the representatives of national minorities and significant neighbouring cultures.⁸⁴ Furthermore, the development of Polish migration policy is not a problem that has attracted strong attention of public opinion so it is not an object of interest of the political parties either. Not only has the limited number of foreigners determined the insufficient debate but also the lack of immigration tradition and experience.

The need of implementation of *acquis communautaire* in a relatively short time as part of the preparations for EU accession resulted in the fact that Polish debate on migration was not a subject itself but rather a function of the accession process.⁸⁵ Despite the strong position of right wing parties that could use immigration in a political game, the present situation is rather beneficial for the actors involved in the shaping of a national migration policy. The xenophobic discourse is sporadic in the language of right wing political parties; its presence is rather latent and dispersed. This discourse also lacks coherence or any clear issue structure⁸⁶.

On the other hand, the issue of migration is getting more and more visible in Polish public discourse, since media (esp. opinion-making daily newspapers) acknowledged the problem of immigrants as important and started to present it as crucial and interesting for the Poles. It could be seen after joining the EU when the opinion-makers and the society realised the growing number of foreigners resident in Poland. Additionally, NGOs and research institutions played a significant role in initiating the public debate. Such a debate took place i.e. after the Orange Revolution in Ukraine when the issue of opening the Polish labour market to Ukrainians was discussed.

The debate on discriminatory problems does not constitute a significant part of the discussion of the migration; however, there is a growing awareness of the issue.⁸⁷ Various campaigns promoting open society with anti-discriminatory character initiated by the third sector as well as the activities of state administration that results from international obligations have already brought some tangible results. The changes in the awareness of people and press can be noticed also on the local level.

⁸³ Compare: Supińska J. and others, *Ksenofobia w Europie: Formy dyskryminacji instytucjonalnej, politycznej i społecznej. Zogniskowane wywiady grupowe z imigrantami*, Institute of Social Policy, Department of Journalism and Political Sciences, University of Warsaw, 2004.

⁸⁴ Bojar H. *New political elites and the issue of national minorities in Poland*, in: Kurczewska J. and others, *Socio-political developments and impacts. The European Dilemma: Institutional Patterns and Politics of 'Racial' Discrimination.*, Institute of Public Affairs, Warsaw, 2005 (unpublished).

⁸⁵ Iglicka K., Kazmierkiewicz P., Weinar A., *Current immigration debates in Europe: Poland*, Migration Policy Group, Brussels, 2005.

⁸⁶ Kurczewska J. and others, *Discourse Analysis...op.cit.*

⁸⁷ Kurczewska J. and others, *Discourse Analysis...op.cit.*



The small number of documented cases of discrimination against immigrants does not mean that such problems do not exist in Poland. Thus, the discrimination issue in Poland should not be limited to the few individual cases.⁸⁸ What calls for attention is the lack of general sensitivity to the occurring cases, especially on the level of everyday language and behaviour⁸⁹. It seems that many programs and actions launched/sponsored by the EU institutions do not take into consideration the specificity of Poland's different migration landscape. At the same time, however, they initiate the discussion and give a chance to work out the solutions based on good practices.

6. Public and third sector's actors and organisations dealing with immigrants' and discrimination issues

This chapter presents the Polish institutions dealing both with migration and discrimination and migration issues. They may be divided into the following groups although their aims and activities overlap:

- Organisations assisting migrants and refugees
- Organisations promoting the open society, tolerance, fighting xenophobia and racism
- State institutions dealing with migrant and minority issue
- Institutions focusing on migration research and promotion of the debate on this issue

Organisations assisting migrants and refugees

The Office of the United Nations High Commissioner for Refugees (UNHCR) operates on the basis of an agreement with the Polish government, since the ratification of the Geneva Convention on the Status of Refugees of 1951 in 1991. It plays an important role in assisting foreigners applying for refugee status and acknowledged refugees. It monitors legislation and the implementation of laws concerning refugees. The organisation is also involved in refugee integration. Funds are provided for NGO partners to cover the costs of social and legal counselling of asylum-seekers in Poland. The UNHCR supports and organises information and education actions about refugees.⁹⁰

The Polish Humanitarian Action (PAH) is a non-governmental organisation helping refugees with material assistance. **Refugee Counselling Centre** of PAH assists foreigners granted refugee status in starting a new life and integrating with Polish society and in finding a job.⁹¹ Another organisation, **Caritas Poland** organised Information Bureaus for Migrants and Refugees (Lublin, Białystok, Wrocław) which concentrate on informational tasks, legal issues of access to asylum procedure and provide psychological counselling. They assist in searching for a job, accommodation, free meals, medical services, language courses, etc.⁹² **The Polish Red Cross (PCK)** is an organisation of similar goals providing material assistance and helping in official contacts with authorities. It was very active in promoting the ratification of the Geneva Convention on the Status of Refugees of 1951.⁹³ **Foundation "Ocalenie"** has similar aims and activities, although probably not so broad and extended.

⁸⁸ Interview with the expert in the Ministry of Interior and Administration.

⁸⁹ Interview with the expert of Helsinki Foundation.

⁹⁰ For more information see: www.unhr.pl

⁹¹ For more information see: www.pah.org.pl

⁹² For more information see: www.caritas.pl

⁹³ For more information see: www.pck.org.pl



Helsinki Foundation for Human Rights main focus is human and refugee rights. Its activity has had a significant impact on the legislation concerning the aliens' rights.⁹⁴ The Foundation drafts appeals to NSA and to the Council on Refugees as part of the program of legal assistance to foreigners. It is also an important partner of UNHCR⁹⁵. Another aspect of the foundation's activities is carrying out research on the situation of people, who belong to national, ethnic and religious minorities and undertaking intervention activities in cases of ascertained discrimination. Since September 2003, as the National Focal Point within the RAXEN network, Foundation prepares analyses, reports and opinions in the field of minority and migrants rights as well as discrimination in Poland.

Legal Clinics Foundation. The idea of the legal clinics program concerns the establishment of legal clinics at the Faculties of Law and Administration, where students help provide free of charge legal advice for poor members of the community.⁹⁶ In 1997, the first clinic in Poland was established at the Jagiellonian University (its section Human Rights deals with refugees and regulations concerning migrants in Poland). In 1998, Clinic at Warsaw University was founded and since then the Section on Refugees assists refugees in submitting the documents, contacts with authorities, etc.⁹⁷ The growing number of such organisations in Poland is now aimed at providing legal assistance to the representatives of refugees or minorities.

H. Nieć Human Rights Association is involved in developing academic research which helps in distribution of the human rights ideas, initiation of the activities leading to the growth of the standards in the human rights prevention and helping to make interventions when they are broken. Its Asylum Unit provides free of charge legal assistance including administrative court representation in asylum cases and cases of other aliens seeking protection.⁹⁸

There are also organisations created by the migrants themselves, for example: **Association of Asylum Seekers/Exiles** publishing *Głos Uchodźcy* [Voice of Exiles]; **Association of Political Refugees from Belarus, Association of Marriages of Poles and Foreigners,**⁹⁹ created in order to promote legislative changes concerning mix – marriages, or "**Wspólnota Kazachska**" **Association** - a non-profit organisation working 'towards unity of people of various nations, cultures and religions.'

Apart from the organisations mentioned above there are also institutions created by ethnic and national minorities. They have usually a socio – cultural character and include religious, cultural, youth organisations.¹⁰⁰ New associations of the 'old' minorities, that have appeared after 1989 have led to the public expression of minorities' interests and have given minorities a chance to be publicly visible.

From this list, limited to the most well-known organisations it can be seen that there is a growing concern over the status of the migrants in Poland. Although their activities, aimed

⁹⁴ For more information see: www.hfhrpol.waw.pl

⁹⁵ For other information on NGO activities see: Iglicka K., Kazmierkiewicz K., Weiner A., *Current immigration...op.cit.*

⁹⁶ For more information see: www.fupp.org.pl

⁹⁷ For more information see: www.klinika.wpia.uw.edu.pl

⁹⁸ For more information see: www.niecassociation.org

⁹⁹ For more information see: www.obcokrajowcy.republika.pl

¹⁰⁰ For example: Union of Ukrainians in Poland, the Foundation for Ukrainian Culture, Muslim Religious Union of Republic of Poland, Association of Roma Minority in Poland.



usually at assisting foreigners, remain partial and fragmentary, they have been a substitute for the state aid for quite a long time.

Analysing the institutions created by the migrants, it can be observed that they are too weak to be an equal partner to the authorities and influence political decisions. They are rather concentrated on improving social and economic conditions of living of immigrants so some activities are aimed at fostering them and making them more effective .

Organisations promoting the open society, tolerance and fighting xenophobia and racism

One World Association, a branch of Service Civil International funded in 1920 is a non-governmental organisation, which carries the mission of promoting peace and mutual understanding by means of international and national voluntary programs and education. Association conducts educational program "Różni - Równi" ('The Different - The Equal') which includes lessons at schools", aimed at increasing the awareness on foreigners in Poland.¹⁰¹ It also publishes various materials on refugees, human rights and minorities in Poland.

Open Republic: Association Against Anti-Semitism and Xenophobia concentrates its activities on a few fields: monitoring manifestations of xenophobia, encouraging the sensitivity of individuals and institutions, promoting tolerance in Poland and initiating and supporting educational activities counteracting formation of the ethnic and cultural stereotypes.¹⁰²

Never Again. The aim of the Association is to promote human rights, multicultural understanding and to contribute to the development of a democratic civil society in Poland. Never Again is particularly concerned with the problem of education against racial and ethnic prejudices among the young.¹⁰³ The most well known initiative undertaken by Never Again was connected with getting rid of fascist and racist symbols in football (Let's Kick Racism Out of Football). The Association is a source of information and recommendations for journalists and institutions interested in the problem of racism and xenophobia. Since 1994 Never Again circulates a regular publication – "Nigdy Więcej" (Never Again) Magazine, providing information on the various extremist and racist groups in Poland and the rest of Europe.

Proxenia Association for the Integration and Protection of Foreigners was created in 2003 aiming at: raising issues concerning problems of migrants in Poland and actively creating political and social conditions of migrants' participation in Polish public life by: promoting the standards of integration, initiating the respect to human rights and people seeking political assistance in Poland, shaping positive attitudes towards migration to Poland.¹⁰⁴

Many organisations are aimed at enriching knowledge about different countries, such as associations of friendship (e.g. Polish – Hungarian or Polish – American), etc while others' goal is to limit aversions and prejudice. A similar goal is shared by the annual **Multicultural**

¹⁰¹ For more information see: www.jedenswiat.org.pl

¹⁰² For more information see: or.icm.edu.pl

¹⁰³ For more information see: www.nigdywiecej.prh.pl

¹⁰⁴ For more information see: www.proxenia.org.pl



Week, a festival, on Warsaw streets. Generally, we can observe an increasing number of civil initiatives aiming at creating a multicultural and tolerant society in Poland.¹⁰⁵

The state institutions dealing with migrant and minority issue

Activities of many state institutions and bodies are aimed at protecting the rights of migrants and national minorities.

In the **Polish Parliament** a number of committees deal with analysed issues: the Committee for National and Ethnic Minorities, the Committee for Liaison and Poles Abroad of Polish Sejm and the Committee of the Emigration and Poles Abroad of Polish Senate.

The Ministry of Interior and Administration supervises the Border Guards, Police and Office for Repatriation and Aliens.¹⁰⁶ The Ministry has initiated the legislative activities, leading to the changes in national legislation on aliens, citizenship, repatriation, etc. In its structure there is the **Department of Religion and National Minorities and Team for National Minorities**. Since 2004, the Ministry has been responsible for co-operation with European Union Monitoring Centre on Racism and Xenophobia. Its Committee for Monitoring Racism and Xenophobia is responsible for gathering information regarding hate crimes, cases of discrimination and conducting analysis in this field. **The Border Guard** is formally supervised by the MIA and represents the institution implementing the controlling functions in the areas of entry, residence and departure of foreigners.¹⁰⁷ It publishes reports, research and statistical data on the migration.¹⁰⁸ **The Office for Repatriation and Aliens'** responsibilities include: refugee and repatriation issues, long – term residence, citizenship, etc.¹⁰⁹

The Ministry of Foreign Affairs' responsibilities in this field includes mainly shaping the Polish consular and visa policy.¹¹⁰ In the structure of **the Ministry of Culture and National Education and Sport** there are units dealing with minority issues also. The Department in the Ministry of Culture is responsible for the financial support of minorities' cultural events, publication and press.

Provincial governor's offices and local governments' responsibilities include the examining of the documents such as visa for employment purposes, residence permit or settlement permits. Their structures envision the Plenipotentiaries for National Minorities that monitor the social situation of national and ethnic minorities and provide them information about new legal acts and assistance programs.

Ministry of Economy and Ministry of Labour and Social Policy (Department of Assistance and Social Integration) are responsible for the legal frames of employment of foreigners. The latter one shapes the character of the social assistance for aliens and integration programs¹¹¹ that are under supervision of County Centres for Family Help (Powiatowe Centra Pomocy Rodzinie). Additionally, the Inter-departmental Team for Social Integration (Międzyresortowy Zespół ds. Integracji Społecznej) was created in the Ministry of Labour and Social Policy.

¹⁰⁵ For other information see also: Grzymała-Kazłowska A., Okólski M., *Influx and Integration...op.cit.*

¹⁰⁶ For more information see: www.mswia.gov.pl

¹⁰⁷ For more information see: www.sg.gov.pl

¹⁰⁸ Iglicka K., Kazmierkiewicz P., Weiner A., *Current immigration...op.cit.*

¹⁰⁹ For more information see: www.uric.gov.pl

¹¹⁰ For more information see: www.msz.gov.pl

¹¹¹ For more information see: www.mpips.gov.pl



In 2005, the Migration Team by the Social Council of Prime Minister (Zespół Migracyjny przy Radzie Społecznej przy Prezesie rady Ministrów) was created, consisting of experts, academics and practitioners.¹¹²

The Government Plenipotentiary for Equal Status for Women and Men. Initially, the competencies of the Government Plenipotentiary for Equal Status for Women and Men (liquidated at the end of 2005) included discrimination on the grounds of sex. Tasks of the office included: preparation for creation of an office for the prevention of discrimination, promotion, initiation, execution and co-ordination of programs for the prevention of discrimination. The office coordinated works on National Action Plan Against Racial Discrimination, Xenophobia and Related Intolerance. In 2002, the Plenipotentiary already performing the duty of the General Inspector for Counteracting Discrimination was given additional competencies that included discrimination on the grounds of racial or ethnic origin, religion or belief, age and sexual orientation. However, the budget remained the same and the body did not have a remit to receive individual complaints.¹¹³

Ombudsman Office. The Ombudsman protects human rights and civil freedoms enshrined in the Constitution and other legal documents.¹¹⁴ Activities of Ombudsman play important role when it comes to the protection of foreigners', ethnic and national minorities' rights. The issue of protection of foreigners has been within Ombudsman competence since 1991¹¹⁵ but this kind of activity has become regular in the mid-1990s. In 2001 the Independent Department of Protection of Foreigners and national Minorities' Rights (Samodzielny Wydział Ochrony Praw Cudzoziemców i Mniejszości Narodowych) was opened. The cases concerning foreigners constitute a very small fraction comparing to other interventions, for example in 2002 about 1% with growing tendency.¹¹⁶ The small number of cases does not prove the absence of problems but rather a limited awareness of the institutions protecting human rights and unwillingness to reveal the national origin in case of minorities. The majority of cases concern refugees or people applying for refugee status (problems with refusals of refugee status, conditions of stay in Poland). Others concern settlement in Poland, repatriation, conditions in prisons and detention centres. Another group of cases is related to the elimination of legal discriminatory regulations towards the foreigners and interventions when no law but other people's activities are a source of discrimination.

The number of cases concerning the protection of national and ethnic minorities rights' constitutes about 30 annually.¹¹⁷ Additionally, Ombudsman initiated an investigation into minority issues and actions aimed at creating a friendly climate towards this group. In 2004 the activities of local authorities were assessed positively although one should keep in mind existing local antagonisms.¹¹⁸ The implementation of the Program for the Roma Community in Poland [Program na Rzecz Społeczności Romskiej w Polsce] was appreciated as well as efforts to activate the Roma on labour market¹¹⁹.

The Ombudsman actions manifest what are the main problems of foreigners and minorities in Poland, on the other hand they show the extent to which the Polish regulations concerning

¹¹² *Cudzoziemcy poszukujący ochrony w Polsce. Analiza danych zastanych*, Institute of Social Policy, Department of Journalism and Political Sciences, University of Warsaw, 2004.

¹¹³ Zienkiewicz E., Mazur – Rafał M., *Equality, Diversity and Enlargement*, European Commission, Directorate General for Employment and Social Affairs, 2003.

¹¹⁴ For more information see: www.brpo.gov.pl

¹¹⁵ Arcimowicz J., "Obcy" – cudzoziemcy i ich prawa w działalności Rzecznika Praw Obywatelskich (unpublished).

¹¹⁶ *Ibidem*.

¹¹⁷ Ochrona praw mniejszości narodowych i cudzoziemców. Informacja Rzecznika Praw Obywatelskich za rok 2004.

¹¹⁸ *Ibidem*.

¹¹⁹ *Ibidem*.



'others' has already changed for the better. According to research the employees of the Office Polish law and authorities do not discriminate against immigrants.¹²⁰ Apart from Ombudsman there is also the **Plenipotentiary for Disabled Persons' Affairs**.

Institutions focusing on migration research and promotion of the debate on this issue

The Centre for International Relations is an independent, non-governmental research institute dedicated to the study of Polish foreign policy. Its Migration and Homeland Security Program activities concentrate on the issues that concern the development of the European area of freedom, security and justice and migration problems.¹²¹ The **Institute of Public Affairs'** Migration and Eastern Policy Program is focused on the problems concerning free movement of labour, foreign labour market in Poland as well as border and Schengen issues. Other issues of interests concern: institutional discrimination, refugee integration, return migration and repatriation in Central Europe¹²²

Institute of Labour and Welfare, under the supervision of Ministry of Labour and Social Policy undertakes research in the area of the labour market in Poland. The Institute issues the journal "Polityka Społeczna" (Social Policy).¹²³

Centre of Migration Studies is a unit of the Institute of Social Studies at Warsaw University.¹²⁴ It is an interdisciplinary group of researchers – demographers, sociologists, political scientists and geographers. The Centre is focused on international movement of people, integration and migration policy. Since 1991, it elaborates trends in international migration for OECD and prepares Polish section of SOPEMI report. Major results of its projects are presented in a series: ISS Working Papers. Another institution of the Warsaw University dealing with migration issues is the **Institute of Social Policy** of the Department of Journalism and Political Sciences.¹²⁵

Institutes of Geography and History, Polish Academy of Sciences. The former carries research on spatial structure of cities and its transformation, while the latter publishes analysis and organises events on migrations in the historical perspective and publishes the series "Migracje i Społeczeństwo" (Migrations and Society).

Institute of Sociology at the Jagiellonian University of Cracow,¹²⁶ **Institutes of Sociology and Geography at the Nicholas Copernicus University in Toruń**¹²⁷ conduct research projects on emigration as well as on the integration of Polish immigrants, undertake studies on the legal status of aliens in Poland.

International Organisation for Migration (IOM) has been active in Poland since 2002 and its main interests include: voluntary returns, integration, human trafficking, etc.¹²⁸ Central European Forum for Migration Research (CEFMR) is a research partnership of the Foundation for Population, Migration and Environment, Institute of Geography and Spatial

¹²⁰ Supińska J. and others, *Discriminatory Landscape Poland*. Institute of Social Policy, Department of Journalism and Political Sciences, University of Warsaw, 2004.

¹²¹ For more information see: www.csm.org.pl

¹²² For more information see: www.isp.org.pl

¹²³ For more information see www.ipiss.com.pl

¹²⁴ For more information see: www.iss.uw.edu.pl/osrodki/cmr/en/

¹²⁵ For more information see: www.ips.uw.edu.pl

¹²⁶ For more information see: www-is.phils.uj.edu.pl/ang/index.html

¹²⁷ For more information see: www.soc.uni.torun.pl/; www.geo.uni.torun.pl/

¹²⁸ For more information see: www.iom.pl



Organization of the Polish Academy of Sciences and International Organization for Migration.¹²⁹

7. Conclusions

The EU member states face the problem of labour markets being increasingly segmented by ethnic or national origin. Non-national workers frequently have a temporary or uncertain legal employment and/or residence status and suffer from high unemployment. However, we cannot say that this is also characteristic for Poland where the protection of the domestic labour market is primarily a result of the current economic situation. A high unemployment factor influences the equal access to the market. Thus, it is also difficult to assess if the existing practices in Poland have a discriminatory character, and as a result, are forcing immigrants to do illegal and underpaid work.

Despite this fact, the policy of the state, taking into consideration the approach to foreigners by various institutions can be characterised as ambiguous, EU-driven with almost no initiatives coming from the domestic level. On one hand, it is aimed at protecting the labour market while on the other, a relatively liberal visa policy allows entry into the country and the possibility of working illegally. Existing solutions show that the problem of immigrants is quite alien to Poland. The low awareness of the problem does not concern only the general public but also the state institutions dealing with migrants. The state agencies should be made more aware of the issue connected with racism and discrimination in order to effectively combat their manifestations.

Migrants in Poland face some forms of discrimination although one cannot say that this is a widespread trend. The accidents of direct (e.g. behaviour of the civic servants, uninformed or having negative attitude towards migrant clients) or indirect discrimination (e.g. limited access to the workplaces) occur sporadically. Moreover, migrants themselves are aware of the difficult economic situation justifying the introduction of barriers for others; the opinion of Poles concerning the work of public institutions seems to be similar. The question is to what extent this is an unequal access to the workplaces and protection of the domestic labour market rather than discrimination. Analysing the present situation in Poland it is rather the problem of the priority of the Polish worker and the ineffective work of Polish institutions dealing with migrants which happens as this is still a process of development.

Poland is not a country where xenophobic behaviour and statements are popular. There is no feeling of strong anti-immigrant hostility nor any visible anti-immigrant protests. The actions of right extremists against foreigners are sporadic and are publicly condemned.¹³⁰ The incidents of intolerance are rather connected with ignorance and prevailing stereotypes. They are present in everyday life but not in the activities of mainstream parties. Such a situation is determined not only by the minor scale of immigration, but also by a specific character of these processes and additional weight of other important social problems. For instance: high unemployment social exclusion that concerns so many immigrants in Western Europe in Poland concerns first of all those people who live in rural areas that used to be dominated by collective farming or post-industrial regions. Considering the fact that this situation changes

¹²⁹ For more information see: www.cefmr.pan.p

¹³⁰ Grzymała-Kazłowska A., Okólski M., *Influx and Integration...op.cit.*



very slowly, it may be concluded that immigration is not going to become a significant social problem in Poland in a predictable future.

The following conclusions may be drawn from the collected data: A comprehensive immigration policy should be created that will eliminate mechanisms that can work against immigrants. Nevertheless, these solutions must be proportional to the problem and be a part of a wider social policy directed towards bettering the economic and social situation of Poland whatsoever. Moreover integration, as a component of this policy should include integration measures for immigrants, not just for refugees as it is the case nowadays. The policy of the state should allow more immigrants who are already working in Poland to legalise their status, and create a clear and flexible system their employment.

Existing solutions reflect the fact that the problem of migrants is still quite new in Poland. The low awareness of the problem does not only concern the general public but also people dealing with migrants. State agencies should be made more aware of the issue connected with racism and discrimination in order to effectively combat their manifestations.

The strategy of managing a foreign labour force should be selective and well-planned in order to limit the illegal employment of immigrants and increase the level of their legal employment. The employment of skilled workers should be made more flexible while the demand for unskilled immigrant workers should be acknowledged as the problem that is not considered to be crucial. Now, there is time to introduce policies that will utilise the past and present experiences of Western European countries and this will help to manage problems related to immigration which Poland may face in the future.



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