



International Labour Office

***Immigration, Discrimination and Integration in Europe:
Policy Options for Europe in the 21st Century***

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The challenge migration, integration and discrimination pose for Europe are undisputedly urgent. I start with an illustration of the possible importance for Europe’s economic future.

The International Labour Office ran last year a simulation using the methodology its actuarial section used over the last ten years to predict –quite accurately—the performance of social security systems. This simulation carried forward calculations to the year 2050 based on presumed continuity of current trends in population decline, retirement age, female workforce participation rates, immigration numbers, and economic growth and productivity rates. The outcome suggests that 45 years from now, the standard of living of Western Europe, as measured by per capita income of gross national products, may be 78% of what it is today. That is to say, 22% lower.¹

Immigration emerges as one of the components –one among a number of measures—that need to be anticipated –and regulated-- to ensure a reasonably stable future and general welfare for Europe and its peoples.

There is no question that non-European migrants have become a substantial and visible part of work forces and populations across the region. However, acceptance and integration of immigrants present for many years has not been achieved. Their over-representation in the ranks of the long-term unemployed and socially excluded reflects the economic, social and political costs associated with lack of integration and discrimination.

I appreciate the reference to the notion of solidarity in the title of this conference and will refer to it in addressing questions posed to this panel on policy agenda. This presentation intends to suggest the critical importance of discrimination and inclusion concerns –based in part on findings of ILO research—and to suggest some key elements of practical and policy remedies.

Discrimination barriers

ILO experience and research indicates that discrimination is a major barrier to inclusion and integration of newcomers in increasingly diverse workforces and populations across this region.

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ILO. *Towards a Fair Deal for Migrant Workers in the Global Economy*. International Labour Conference 92nd Session June 2004. Report VI. P. 37-38. Available on line at:
<http://www.ilo.org/public/english/standards/reim/ilc/ilc92/pdf/rep-vi.pdf>

It was long evident that migrant and ethnic minority workers face numerous problems in the labour market, and that they are at a disadvantage when compared with members of the dominant population. They have disproportionately higher rates of unemployment and underemployment than nationals.

Conventional wisdom was that differences in outcomes of access to employment, pay, conditions of work, job security, etc. were the reflection of differences in qualifications, levels of education and of language abilities. Recognized disadvantages for immigrant workers included inadequate education and training, lack of access to networks and connections to employers, non-recognition of qualifications gained abroad, and inadequate command of the host country's language

Responses by political leaders and some academics to anecdotal evidence that discrimination occurred on the basis of perceived colour, religion or national origin was generally outright denial or minimization of its importance.

However, it was evident in a number of countries that the longer migrants and their offspring live and work in a host society, the more likely it is that prejudice and discrimination prevent them from reaching similar economic and educational attainments as the majority population

It appeared to that practices of discrimination by labour market gatekeepers were an important feature.² In some countries, the accumulated effects of discriminatory acts in the past have led to a contemporary environment that is itself discriminatory. A necessary starting point to address discrimination was clearly to establish its existence, extent and character.

Since 1991, the ILO has conducted a project on *Combating Discrimination Against Migrant and Ethnic Minority Workers in The World of Work*. The project sought to document discrimination in access to employment in North America and Western Europe. It intended to reduce discrimination against regular migrant workers and ethnic minorities by informing policy makers, employers, workers, and NGOs on how legislation, training and practical activities can be rendered more effective. Countries involved in the project were Belgium, Canada, Denmark, Finland, France, Germany, Italy, the Netherlands, Spain, Sweden, the United Kingdom and the United States.

ILO Situation Testing

A major aspect consisted of national surveys to determine the occurrence of discrimination in access to employment, using a methodology for the documentation of discrimination developed by Prof. Frank Bovenkerk. The methodology prescribes in detail how to document whether or not migrant or minority workers were discriminated against when trying to find a job. In these so-called *practice tests*, equally qualified (im)migrant and citizen-profile candidates applied simultaneously for advertised vacancies. By testing migrants' and minorities' chances in numerous application procedures for different sorts of jobs comprising a cross-section of the labour market, the programme documented the incidence of discrimination against these workers in different sectors and locations. The ILO studies have

2 The term labour market "gate-keeper" was used in the ILO research to refer to persons with key roles in the employment hiring process, including personnel managers, trade union officials, staff of public and private employment placement services, etc., who all shared the basic characteristic of having far-reaching effects on the employment prospects and career decisions of workers. Some of the reasons perceived at first sight as >objective= handicaps preventing employment can also be recognized as forms of indirect discrimination. Thus, to insist upon perfect, accent-free knowledge of the host countries= language for a manual or semi-skilled job, where this is not necessary for the performance of the job, constitutes indirect discrimination, since it adversely affects migrant and ethnic minority workers more than the majority population.

focused on migrants “who are economically active in a country of which they are not nationals”, as per the definition in ILO Convention 97.³

By early next year, tests using this methodology will have been conducted in 9 countries across Europe including 8 EU member States. This research represents so far the only methodologically consistent, statistically significant studies measuring the situations in labour markets of the most important immigrant groups in countries studied.

The studies conducted in Belgium, Germany, the Netherlands and Spain in the 1990s 4 showed net discrimination rates of up to 35 per cent, meaning that in at least one out of three application procedures migrants were discriminated against. The study recently completed in Italy found 41%, and a similar study in Switzerland found even higher rates. These results are assumed to be conservative estimates of what is happening in reality given the rigorous research methodology; they clearly demonstrate that immigrants experience significant discrimination solely on the grounds of their actual or perceived colour, religion or origin. Other studies are currently underway with results expected early next year.

Rate of discrimination in five European countries

	Belgium	Germany	Netherlands	Spain	Italy
First stage: telephone call	19	13	23	25	27
Second stage: invitation to interview	12	6	9	8	12
Third stage: offer of work	2	Not done	5	3	2
Total rate of discrimination	33	19*	37	36	41

Sources: Zegers de Beijl, 2000; for Italy, Allasino et al, ILO (2004).

* Partial total given that third stage testing was not conducted in Germany for technical reasons.

The research findings showed discrimination occurring in, broadly, three stages of the recruitment process. The first, and most common form of discrimination tended to occur at the first contact between migrant/minority applicant and employer. Blatant, direct discrimination at this stage meant that migrant/minority applicants were often not even able to present their credentials. Often the migrant/minority applicant was simply told that the vacancy was already filled, while the citizen-profile applicant would be invited to be interviewed for the post. In other instances, the migrant candidate, distinguishable by his/her foreign-sounding name, was told straight away that foreigners were not wanted. The second stage of discrimination occurred when both applicants were invited for an interview. At this stage, there were a considerable number of cases where the migrant/minority candidate was subjected to additional qualification requirements while the national candidate was not. The third stage showed that, if the migrant/minority candidate was offered a job, the terms and conditions of employment tended to be inferior to those offered to the citizen-profile applicant. Above average discrimination rates were detected particularly in privately owned small and medium sized enterprises in the services sector, especially for jobs that involve direct contact with clients. This is all the more troubling as it is notably the services sector in which demand for labour is relatively high and new jobs are being created.

3 ILO Migration for Employment Convention (Revised), 1949 (No. 97), article 11.

4 See F. Bovenkerk, M. Gras and D. Ramsoedh, (1995); A. Goldberg and D. Mourinho(1996); Colectivo IOE, (1996); M. Bendick Jr (1997); B. Smeesters and A. Nayer (eds.)(1998).

Publication and ensuing debate on these findings had significant impact in improving legislation, labour inspection, social partner responses and practical activities in several of the countries studied, particularly in Belgium.

Impact of Discrimination

What is the impact of this discrimination? I've just come from an international academic conference held in Italy on discrimination field research. One of the points underlined by presenters there was the long-term human and social effects of discrimination to victims. Repeated, reinforced discrimination leads to depression, apathy, resignation, and marginalization... When people—and groups-- are consistently denied employment opportunities, and when they are also confined to ghettos, provided inferior education or training opportunities, perceive law enforcement as providing little protection and face manifestations of discrimination in other aspects of community life, the combination adds up to a powerful recipe for exclusion, the antithesis of inclusion that is the fundamental notion of integration.

Unequal starting points or disadvantages, together with discriminatory behaviour, are the key reasons why migrant and ethnic minority workers face greater obstacles than the majority population.⁵ In some countries, the accumulated effects of discriminatory acts in the past may have led to a contemporary environment that is itself discriminatory. In contrast to individual acts of discrimination, societal discrimination consists of arbitrary barriers against the advancement of minorities; the whole “system” disfavours individuals because they are members of a certain group.

Compounding the challenge of discrimination are underlying ideological precepts of the definitions and identities of most European nation-states. Historically, these identities have often been constructed around not necessarily accurate mono-racial, mono-cultural, monolingual, and sometimes mono-religious definitions of belonging.

The reality across Europe is increasingly diverse, and will inevitably become more so. A more pronounced shift of paradigm regarding national and European identities is required, legitimising diversity while preserving the essence of identities that comprise that diversity, including those historical European identities.

So why is employment discrimination against immigrants widespread if not pervasive? I will not attempt a broad answer, but simply offer a few observations on the role migrant labour plays today.

At the beginning of the 21st Century, some 86.5 million foreigners were estimated to be economically active, that is to say employed, self-employed or otherwise active in remunerative activity, across the world. That is half of the total 175 million, including refugees. 28.5 million are economically active in Europe. They commonly represent 10% of the work force in Western European countries.

Role of Migration in Europe

Migrant labour in this regional and elsewhere largely fills “three-D” jobs: dirty, dangerous and degrading. Efforts to fill shunned “3-D jobs” and acquire economic competitiveness through high productivity produce a continuous demand for cheap and low-skilled migrant labour in many sectors of the economy.

5 Additional explanations for the high under- and unemployment of migrant and ethnic minority workers can be found in macro-economic developments, including the constant reduction of unskilled industrial manual labour. See Abella et al. (1997), p. 9.

Immigrant labour has long been utilized as a low cost means to sustain economic enterprises and sometimes, entire sectors that are only marginally competitive. Today, migrant labour ensures low cost provision of agricultural produce, domestic service, low cost construction labour, and services in the “sex industry”.

Small and medium size companies and labour-intensive economic sectors do not have the option of relocating operations abroad. Responses include downgrading of manufacturing processes, deregulation, and flexibilization of employment, with increased emphasis on cost-cutting measures and subcontracting⁶. In a number of countries, these measures are expanding the number of jobs at the bottom of the employment scale. Such employment needs are met only partially or not at all by available or unemployed national workers, for reasons of minimal pay, degrading and dangerous conditions, and/or low status in those jobs and sectors. As well, the unemployed in some countries have access to social welfare and unemployment insurance.

The resulting demand for migrant workers provides a significant impetus to labour flows and facilitates the incorporation of undocumented migrants⁷. Despite relatively high unemployment in a number of developed countries, foreign workers – including unauthorized migrants – are able to find jobs easily⁸. Evidence suggests that undocumented migrants are rarely “unemployed”⁹.

Research in Southern European countries demonstrates the extent to which “the migrants take jobs that the locals refuse. It’s simply a matter of substitution.”¹⁰ A recent study prepared for ILO noted, “We can conclude that migrants are in competition only with marginal sections of the national labour force ...when they are not sufficiently sustained by welfare provisions, in specific sectors, and/or in the less-developed areas inside these countries.”¹¹

The insertion of irregular migrants in the lowest skilled occupations responds to a structural need in developed societies. For the least qualified jobs, employers demand workers who will not exercise pressures on the salary structures. Given that, at least initially, immigrant workers won’t challenge the relation between salary and the social status attached to specific occupations, contracting migrant workers avoids the economic risks – particularly structural inflation – that national workers induce when they demand salary increases.

Discrimination plays an important role in maintaining –and justifying–stratification and segmentation in the labour market. It contributes and mutually reinforces attitudes that relegate or constrain certain identifiable groups to certain roles and strata in the work force. The pressures of higher unemployment rates among immigrants and ethnic minorities make them less susceptible to unionisation, especially in sectors of precarious employment with strong threats of dismissal for either organizing or simply complaining about absences of occupation safety and health protections and “decent work” conditions. As the International

6 Lean Lim, Lin; “Growing Economic Interdependence and its Implications for International Migration” in *United Nations: Population Distribution and Migration*, New York, 1998, p. 277.

7 Escobar Latapí, A., “Emigration Dynamics in Mexico, Central America and the Caribbean”, 12th IOM Seminar on Migration, Managing International Migration in Developing Countries, Geneva, April 1997, p. 4.

8 Lean Lim, *op. cit.*

9 OSCE Office for Democratic Institutions and Human Rights Conference Report: Europe Against Trafficking in Persons’, Berlin, 15-16 October 2001, at 72.

10 Reynieri, E., “Migrants in Irregular Employment in the Mediterranean Countries of the European Union”, International Migration Paper No. 41, ILO, Geneva, 2001.

11 *Ibid.*

Confederation of Free Trade Unions (ICFTU) highlights, organizing migrants and immigrants into unions or organizations to defend their interests and rights is often extremely difficult as it is easily intimidated and disrupted by the threat or actual practice of dismissal and deportation.¹²

While emphasizing this context, I hasten to note that there is also growing competition for highly educated specialists for expanding service sectors, which has resulted in a significant rise in skilled labour migration over the past years, despite generally restrictive immigration policies. Serious labour shortages in the area of information and communication technologies have prompted a number of countries to launch recruitment strategies for highly qualified immigrants.

A Framework for policy

In our view, what is required is recognition that immigration is emerging as a permanent feature of Europe today, one requiring a comprehensive and sustainable package of measures to regulate and administer.

The lack of a comprehensive approach and the lack of any attention to linking admissions with anti-discrimination and integration measures in past decades is clearly a fundamental reason for existence today of populations of long-term marginalized second and third generation “immigrant” communities in a number of countries.

Experience of ILO constituents, recommendations from international intergovernmental and civil society conferences, and particularly the Conclusions and plan of action on migrant workers adopted at the 2004 International Labour Conference in Geneva provide the basis to articulate several main components for a policy agenda towards long term accommodation of migration and social cohesion:

1) **A standards-based foundation for national migration policies and practices.**

The two ILO Conventions on migration --the ILO Migration for Employment Convention of 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)-- together with the 1990 International Convention on migrant workers provide a broad legal framework for migration policy and practice. These three instruments comprise an *international charter on migration*, providing a normative framework covering most issues of treatment of migrants and of inter-State cooperation on regulating migration. **70 different States have now ratified** one or more of these three complementary standards. A major purpose of establishing legal rights and policy standards is to ensure social legitimacy and accountability, which can only be ensured by a foundation in the rule of law.

2) **An informed and transparent migration policy and administration**

Immigration must respond to measured, legitimate needs, taking into account domestic labour concerns as well. An appropriate system must rely on regular **labour market assessments** to identify and meet current and emerging needs for workers, high and low skilled. Policy and practice will need to address supervision of recruitment, administration of admissions, training of public service and law enforcement officials, recognition of educational equivalencies, provision of social and health services, labour inspection, rights restoration and recovery for victims of trafficking, and other areas.

3) **Institutional mechanisms for dialogue, consultation and cooperation**

¹² See for example, Linard, A., “Migration and Globalisation - the New Slaves”. ICFTU, Brussels. July 1998.

Migration policy can only be credible, viable and sustainable to the extent it takes into account the interests and experience of the most-directly affected stakeholders. Key stakeholders are the social partners: the employers and businesses that provide employment, and the trade unions –worker organizations—representing the interests of workers, both migrants and nationals. Labour ministries need to have a key role. Of course, consultation and policy-making must also take into account the multiple concerned ministries and agencies within government, the national legislative bodies, as well as concerned civil society bodies and certainly migrants themselves.

4) Enforcement of minimum national employment conditions norms in all sectors

Preventing exploitation of migrants, reducing discrimination, and discouraging irregular employment require enforcement of clear national minimum standards for protection of workers, national and migrant, in employment. ILO Conventions on occupational safety and health, against forced labour, and on discrimination provide minimum international norms for national legislation. A necessary complement is **monitoring and inspection** in such areas as agriculture, construction, domestic work, the sex industry and other sectors of ‘irregular’ employment, to prevent exploitation, to detect forced labour, and to ensure minimal *decent work* conditions for all.

5) Gender sensitive migration measures

The feminization of migration and the predominance of abuse of women migrants require recognizing gender equality as integral to the process of policy-making, planning and programme delivery at all levels.

6) A Plan of Action against discrimination and xenophobia

Discrimination against migrant workers represents a challenge to good governance and social cohesion. The 2001 World Conference in Durban elaborated a comprehensive and viable plan of action to combat discrimination and xenophobia against migrants at national, regional and global levels, based on common experience from different regions. Main points include:

- C Strengthen the rule of law by adoption of relevant international standards.
- C Make racist and xenophobic discrimination, behaviour and action unacceptable and illegal.
- C Elaborate administrative measures and procedures to ensure full implementation of legislation, and accountability of all government officials.
- C Provide for independent national human rights/anti-discrimination institutions with powers to address non-citizens.
- C Promote respect for diversity and multicultural interaction.
- C Encourage communications media to emphasize positive images of migration
- C Incorporate multi-cultural and diversity training in educational curricula.
- C Mobilize civil society cooperation.

These and other necessary complementary measures were articulated in the Conclusions and plan of action adopted at the 2004 International Labour Conference. Those Conclusions outline a comprehensive approach to regulating migration agreed to by ministerial level government representatives and leadership of trade union and employer federations from the 177 ILO member countries.

Specifics on discrimination and integration

In the field of discrimination and integration, our research and experience have some more specific contributions to offer policy makers. ILO has carried out studies on effectiveness of anti-discrimination legislation in Belgium, Canada, Denmark, Finland, Germany, Italy, the Netherlands, Spain, Sweden, the United Kingdom and the United States. These research

findings¹³ indicated that criminal law prohibitions of discrimination provided limited redress to victims of unlawful discrimination in employment. Rather, comprehensive civil legislation appeared to establish far more effective mechanisms for the identification, intervention, redress and monitoring of discriminatory treatment. Research also indicated that recourse to legal remedies for discriminatory acts was facilitated when such legislation not only clearly outlawed both direct and indirect discrimination, but also contained straightforward definitions of both types of discriminatory acts. To ensure the relevance of anti-discrimination law for non-national migrant workers as well as ethnic minorities, nationality, colour, religion, “race” and ethnic origin should be amongst the grounds for discrimination covered in the legislation. Given the substantial difficulties involved in proving discriminatory practices, some studies indicated need for civil anti-discrimination legislation to allow the reversal of the burden of proof, where this was not automatically the case. When a complainant produced plausible or prima facie evidence of discrimination, the alleged perpetrator would have to prove that the disadvantageous treatment was not based on any prohibited grounds

Experience in several countries showed that legal requirements for monitoring and reporting by employers on the diversity of their workforce are extremely useful tools. Equally indispensable were requirements to adopt positive action programmes actively promoting migrants’ and minorities’ equal participation in employment, as well as provisions which exclude companies proven to engage in discrimination from the award of governmental contracts.¹⁴

As regards the crucial issue of law enforcement, the findings clearly demonstrated that a specialised institution in the field of equality of treatment and non-discrimination provides the most effective way of guaranteeing effective enforcement and promotion of anti-discrimination legislation. Such an institution should handle all individual allegations of discriminatory treatment and try to arrive at a mediated solution. To be fully effective, the institution should have wide investigative powers. Should mediation fail, the agency should be empowered to issue ‘*cease and desist*’ orders aimed at obliging the discriminator to cease the practice and put remedial and preventive measures in place. It also ought to have the power to bring cases to court. As discrimination is rarely a one-off act, provisions that allow for group complaints would also enhance the impact of anti-discrimination legislation.¹⁵

The EU Directive on Racism and its implementation are certainly major steps in the right direction. But only a comprehensive approach combining legislative measures, administrative actions and voluntary initiatives will achieve true and sustained progress.

Practical Measures

An important feature of recent work has been elaboration of a broad set of profiles of anti-discrimination measures applied by governments, employers, trade unions and civil society organisations. Some 100 profiles of initiatives by businesses, local government, trade unions and NGOs in 24 European countries can now be found on our website. These effectively

13 See R. Zegers de Beijl (1991); G. Rutherglen, (1993); C. Ventura (1995); R. Zegers de Beijl in W. R. Böhning and R. Zegers de Beijl (1995); U. Kulke in: A. Goldberg, D. Mourinho and U. Kulke (1996); R. Pérez Molina in Colectivo IOE and R. Pérez Molina (1996); K. Vuori (1996); D.N. Addy (1997); N.-E. Hansen and I. McClure (1998); J. Doomernik (1998); B. Smeesters and A. Nayer (1999).

14 For similar recommendations see *Equality in employment and occupation*, Report III (part 4B) ILO, Geneva, 1996; Consultative Commission on Racism and Xenophobia: Final report, European Commission, Brussels, 1995.

15 For more details see W.R. Böhning and R. Zegers de Beijl (eds.) (1995)

demonstrate that many actions are taking place, with legislative incentive and without, across the continent.

Through this work, ILO has developed a typology of such measures, now including more than 50 different types ranged across the following six basic categories:

- (1) *Organisational initiatives*: measures adopted by employers and other organisations, including trade unions, focusing on internal policy and management;
- (2) *Collective action*: co-operative initiatives taken up by labour organisations, community groups, associations of employers and NGOs;
- (3) *Legislative and legal measures*: measures implemented by judicial and extra-judicial bodies of the State;
- (4) *Administrative measures, regulations and practices*: measures taken by local and national authorities;
- (5) *Political/educational action*: opinion shaping efforts by political leaders, educational institutions and communications media; and
- (6) *International standards and programmes*.

Current Action: the INTI Project

In the last year, ILO has expanded activity in this area through a EU supported “INTI” project to support broad community engagement in EU member countries in integration and combating discrimination against immigrants. Its operational partners include the Centre for Social Innovation, Austria; Churches Commission for Migrants in Europe (CCME), Brussels; Europa-Kontakt, Berlin; International and European Forum on Migration Research (FIERI) Turin, Italy; Irish Business and Employers Confederation (IBEC); and Irish Congress of Trade Unions (ICTU).

The project, called “**Promoting equality in diversity: integration in Europe**”, is intended to *support broad community engagement throughout European Union member countries in facilitating integration of and combating discrimination against immigrants by disseminating effective practice, identifying indicators of integration, developing evaluation tools, and convening social partner networking*. Its main areas of activity include:

1. Expanding our European compendium/data base to include some 300 practice profiles. (91 are currently on line at www.ilo.org/migrant click on *discrimination*.)
2. Determining evaluative indicators, methodology and tools to assess effectiveness of integration and anti-discrimination practices.
3. Studying experiences to identify key indicators of integration.
4. Developing tool kits for social partners, particularly small enterprises and trade unionists
5. Convening a European social partner forum on integration and discrimination.
6. Organizing a Europe wide conference to share knowledge and consider possibilities for a European campaign on integration and anti-discrimination.

We invite participation by European partners in this conference, to take place here in Brussels 8-10 December of this year.

Conclusion

Through these and other initiatives, ILO seeks to concretely reduce the extent of discrimination and ultimately improve the integration of immigrants and their descendants.

Efforts of the European Commission to elaborate a structured, comprehensive European migration policy merit strong support. As highlighted at the International Labour Conference in June of last year.

“A rights-based international regime for managing migration must rest on a framework of principles of good governance developed and implemented by the international community that are acceptable to all and can serve as the basis for cooperative multilateral action. Existing international Conventions defining the rights of migrant workers provide many of the needed principles, but a sound framework would have to include principles on how to organize more orderly forms of migration that benefit all.¹⁶

Maintaining social cohesion in the context of inevitably greater diversity and migration requires advancing a policy framework that assures respect for migrants’ rights, dignity and equality of treatment in the practice of States and societies. This requires adhering to basic international human rights standards, addressing labour market needs and composition, ensuring *decent work* opportunities for all, enacting legislation and measures to combat discrimination and promote integration, and elaborating accompanying practical measures.

We look forward to further dialogue with European partners on these critical challenges of migration and integration.

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Author

Patrick Taran is Senior Migration Specialist at the International Labour Office (ILO) in Geneva. Previous posts were Secretary for Migration of the World Council of Churches, Director of Migrants Rights International, and Program Officer for the UN inter-agency International Migration Policy Program. Earlier experience included directing the South American Refugee Program in Seattle and a decade with the Immigration and Refugee Program of the National Council of Churches of the USA.

Contact details:

International Migration Programme
International Labour Office
4, route des Morillons
CH-1211 Geneva 22
Phone: (41-22) 799-8091
Fax: (41-22) 799-8836

taran@ilo.org

Website: www.ilo.org/migrant