

MANAGING THE IMMIGRATION  
AND EMPLOYMENT  
OF NON-EU NATIONALS IN IRELAND

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# MANAGING THE IMMIGRATION AND EMPLOYMENT OF NON-EU NATIONALS IN IRELAND

Martin Ruhs

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## Executive summary

This paper aims to contribute to current debates about how to best manage the immigration and employment of non-European Union (EU) nationals in Ireland. Although taking a general approach that considers all potential avenues for migrating and taking up employment in Ireland, the paper focuses on *labour immigration policy*, as opposed to humanitarian policies that are concerned with refugees and asylum seekers. Furthermore, the emphasis of the discussion is on the *admission* and *employment* of migrant workers rather than on the equally important but analytically distinct issues of migrants' social and economic integration. In its discussion on the debate and design of Irish labour immigration policy, the paper addresses four key questions:

- 1 What have been the labour immigration flows and policies in Ireland?
- 2 What *are* the consequences of international labour migration to Ireland?
- 3 What *should be* the principles and objectives of Ireland's labour immigration policy?
- 4 What policies are best suited to achieve these objectives?

It is important to emphasise that this paper does *not* aim to give comprehensive answers to these questions; rather, it seeks to provide information and analysis to inform the discussion.

### **Immigration and the Irish labour market**

Ireland's economic boom during the 1990s brought unprecedented levels of prosperity and helped transform it into a 'country of immigration'. Net migration to Ireland increased from 8,000 in 1996 to over 41,000 in 2002 and remained high at 32,000 in 2004 (all years ending in April). Most of the recent growth in immigration has been driven by a rapid increase in the inflow of non-Irish migrants, especially from outside the pre-enlarged European Union (EU15). The number of non-EU15 immigrants arriving in Ireland increased from less than 5,000 in 1995 to over 24,000 in 2002 and remained high at over 16,000 in the year ending in April 2004.

Importantly, the figures above do not yet take account of the significant number of workers from the new EU member states that have taken up legal employment in Ireland since EU enlargement on 1 May 2004 (over 50,000 between May-December 2004). This was made possible by Ireland's decision to grant accession state nationals unrestricted access to the Irish labour market immediately upon EU enlargement.

Among the various categories of non-EU nationals coming to Ireland in recent years, the great majority are workers (approximately 110,000 in 2000-04 excluding arrivals from the new EU member states since 1 May 2004), followed by asylum seekers (approximately 45,000 applications during 2000 to 2004), students and dependents (for whom time-series data are not available).

The majority of non-European Economic Area (EEA) nationals who have legally taken up full-time employment in Ireland since the late 1990s were admitted under the work permit system which, until recently, issued work permits for employment in a wide range of occupations, including low-skill jobs (approximately 100,000 new work permits issued during 2000 to 2004). A much smaller number of migrant workers entered on work visas/authorisations that facilitate the employment of migrants in selected specialised occupations only (approximately 10,000 work visas/authorisations issued during 2000 to 2004).

Some non-employment-based channels of immigration may also facilitate access to the labour market. For example non-EEA nationals who come to Ireland for the purpose of studying – as of April 2005 this needs to be for a minimum period of one year – are entitled to take up casual employment. In 2004, the number of non-EEA students was more than double the number of new work permits issued.

Of course none of the official figures above takes account of the unknown number of non-EEA nationals working illegally in Ireland. Despite an increase in the number of deportations (from 188 in 2000 to 663 in 2004) and a rise in the level of legislation aimed at combating the illegal immigration and illegal employment of non-EU nationals, it remains unclear to what extent the existing laws and measures are actually enforced. For example only three employers have so far been convicted of violating the Employment Permits Act 2003.

### **Work permit policies in Ireland, 1999-2004**

Until April 2003 Ireland's work permit policies were almost entirely 'employer-led'. Local employers were essentially in a position to legally recruit as many non-EEA workers as they wished, from whatever countries they wanted, and to employ them in any job, regardless of the skill level required, once they were prepared to go through the work permit system's administrative procedure.

As a result, the number of work permits issued to non-EEA nationals increased dramatically from 5,750 in 1999 to 47,707 in 2003. Furthermore, it is known that approximately three out of every four permits issued in 2002 were for employment in relatively low-skilled and/or low-wage occupations, especially in the service sector. There was also great diversity in the composition of the migrant workforce employed on work permits at that time: in 2000-2003, work permits were issued to nationals from more than 150 countries. Workers from the ten new EU member states accounted for about a third of all permits issued during that period.

The publication of the Employment Permits Act in April 2003 – which facilitated the granting to workers from the ten countries acceding to the EU free access to the Irish labour markets immediately upon EU enlargement – marked the beginning of a more interventionist work permit system in Ireland. The government felt that its liberal policy toward workers from the EU accession countries required a more managed approach to regulating the number and selection of migrant workers coming to Ireland from outside the enlarged EU. This was primarily based on the expectation that local employers would be able to fill most of their vacancies after 1 May 2004 through recruitment of workers from within the enlarged EU.

The key work permit policies initiated since April 2003 include: i) the designation of selected occupational categories as ineligible for the purpose of new work permit applications; ii) the encouragement of local employers to give preference in their migrant worker recruitment decisions to workers from the EU accession countries (during November 2003–April 2004); and iii) the announcement by the Department of Enterprise, Trade and Employment (DETE) in August 2004 that it will no longer consider applications for new work permits for the employment of non-EEA nationals in low-skill occupations.

Together with EU enlargement, this shift towards a more restrictive and skills-based permit system contributed to a decline in

work permits issued, from 47,707 in 2003 to 34,067 in 2004. Looking at the issuing of new permits, the average monthly number of work permits issued during May–December 2004 (613) was the lowest since 1999. It is interesting to note, however, that this figure is approximately the same as the average monthly number of new permits issued to workers from outside the enlarged EU during November 2003–April 2004. This suggests that the opening up of the labour market to accession state nationals on 1 May 2004 may have reduced but certainly did not eliminate employer demand for work permits for workers from outside the EU.

### **Consequences of international labour migration**

International labour migration generates a complex set of economic, social, political, cultural, environmental and other consequences for the receiving country, for migrant workers and for their countries of origin. The existing theoretical and empirical studies carried out for other countries suggest that these consequences are likely to involve both benefits and costs for all sides involved. The various impacts are also inter-related and *potentially* conflicting, which means that the relationship between them *may be* characterised by trade-offs.

Given Ireland's relatively short history of employing significant numbers of non-Irish migrant workers, the existing literature and information on the consequences of migration to Ireland – and the empirically relevant trade-offs involved – is extremely limited. There is, for example, no systematic evidence on how immigration has affected Ireland's economic growth, labour market (including effects on wages, employment and collective bargaining), public services and the fiscal balance more generally.

Similarly, it is clear that the rapid increase in immigration over the past few years is transforming Ireland from what used to be a very homogenous society to a more ethnically diverse and multicultural one. There is little research, however, on how these trends impact on Irish identity, i.e. on how Ireland's residents 'see themselves', and on whether these impacts are perceived as positive or negative.

There is also no systematic empirical research on wages received, or remittances made, by migrant workers in practice. The only existing study on this issue is based on the information provided by employers on the work permit application form. The job categories with the lowest weekly pay offered to work permit holders in 2003

were ‘personal and protective services in the domestic service sector’ (€253 per week – roughly equivalent to the minimum wage at the time) and certain low-skill occupations in agriculture (€286, approximately 14 per cent higher than the minimum wage at the time).

A significant part of the existing publications on migration to Ireland is concerned with migrant workers’ rights. Non-governmental organisations (NGOs), trade unions and elements of the public media have persistently reported anecdotes about violations of migrant workers’ rights, especially those pertaining to minimum wage and employment conditions of migrant workers employed under the work permit system. Again, notwithstanding what some interpret as strong anecdotal evidence, there has been little *systematic* data gathered to assess the extent of discrimination and migrants’ rights violations in Ireland. This lack of data is partly attributable to the fact that the DETE’s labour inspectorate claims that it cannot provide any data on the number of complaints made by, or on behalf of, migrant workers employed in Ireland.

### **Basic policy principles and objectives**

*Comprehensiveness.* A discussion of Ireland’s current labour immigration policies needs to take a general approach that considers all channels of immigration, including non-employment based ones, that non-EU nationals may use to enter and take up employment in Ireland – legally or illegally.

*Rationality.* Policies should be based on an understanding of the multifaceted and inter-related consequences of international labour migration to Ireland. There is an urgent need to close the significant gaps in the evidence base on trends, patterns and impacts of international labour migration to Ireland. This requires more research and, as a necessary precondition, greater efforts to make more of the already existent administrative data available for analysis (e.g. work permits data and PPS data), and to generate new data where no administrative or other systematic data currently exist.

*A balanced approach.* In order to design labour immigration policies that are both viable and ethical, a case can be made for a balanced approach to the choice of policy objectives. Such an approach would

accept the need for labour immigration to create net benefits for the Irish economy and society and, at the same time, recognise the active promotion of the interests of migrant workers and of their countries of origin as a key policy objective.

*Consideration of potential policy lessons from other countries.* Given that there are many countries with much longer histories and experiences of debating and managing labour immigration, there is a clear need for Ireland to study the potential policy lessons from other countries. It is important to emphasise, however, that efforts to 'learn from the international experience' must not result in a search for 'best practices' that Ireland may import and implement wholesale. The fact is that there are simply no widely accepted best practices because few countries have managed labour immigration well. The objective should thus be to selectively learn from the positive and negative policy experiences of other countries.

*Consideration of international policy constraints.* There are currently few substantial international constraints on the way Ireland determines the *number* and *selection* of migrant workers from outside the EU. Efforts to harmonise immigration policy at the EU level, for example, have met with very limited success. One important aspect of Ireland's immigration policy that *is* currently constrained by international instruments/policies however is the bundle of *rights* accorded to migrant workers after they have been admitted to Ireland. Ireland has ratified the International Labour Organisation's (ILO) Equality of Treatment Convention and is a state party to most of the UN's major human rights conventions and to the European Convention on Human Rights (ECHR).

## **Policy options**

### *Re-adjusting Ireland's current work permit system*

At least two separate measures are needed to strengthen and improve the effectiveness of the current work permit system. First, it will be necessary to significantly improve the effectiveness of the labour market test, i.e. the mechanism that checks for the availability of local (including accession state) workers before giving permission to employ migrant workers from outside the enlarged EU. Although Ireland's and other countries' experiences

have shown that effective labour market tests are notoriously difficult to implement, a first step would be to require work permit employers to offer wages and working conditions that correspond to – or exceed – the average wages and working conditions prevailing in that job category. This could help protect wages and employment conditions of competing local workers (including all EU nationals). It would also encourage employers to more carefully consider the alternatives (mechanisation, relocation abroad, etc) before employing non-EU nationals to fill labour shortages.

An improved labour market test could also be part of a two-tier system: in sectors or occupations which are verifiably known to suffer from shortages of local workers, some of the components of a labour market test (such as the requirement to actively search for local workers) could be waived; the remaining sectors/occupations would still be subject to a labour market test which could be more focused and therefore potentially more effective.

A second important measure necessary to improve the current work permit system is to make work permits portable *within a defined job category and after a certain period of time*. This would help protect migrant workers' rights by enabling them to more easily escape unsatisfactory working conditions than is currently the case. It would also increase the efficiency of the labour market by enabling migrant workers to better respond to wage differentials and 'carry their labour' to jobs where it can be used most productively.

A possible policy option to facilitate some degree of portability would be to allow a change of employer – within certain sectors/occupations and after a certain period of time – as long as the new employer makes a new application for a work permit. To make such a policy efficient, efforts could be made to inform migrant workers employed on work permits in Ireland about work permit vacancies notified to FÁS.

A second policy option would be to grant portability – again, within certain sectors/occupations and after a certain period of time – *without* requiring the new employer to make a new work permit application. Importantly, such a policy would need to be accompanied by measures that prevent employers from routinely replacing migrant workers whose work permits become portable with new migrant workers on new permits that do not allow a change of employers. This requires a careful monitoring of the number and employer recipients of new work permits issued.

*Introduction of a permanent immigration programme*

All of Ireland's existing labour immigration programmes for non-EEA nationals issue *temporary* permission to work and reside in the country. Naturalisation is currently the only effective way of acquiring the secure right to reside and work in Ireland on a permanent basis.

The absence of a permanent immigration programme is problematic for a number of reasons, not least because the offer of a temporary employment permit with no opportunity to gain the secure status of a 'permanent immigrant' other than through naturalisation may be a serious obstacle to Ireland's ability to continue to attract skilled and highly skilled workers.

In order to fill this obvious policy gap, Ireland could institute a 'points-system' – similar but not necessarily identical to those systems in use in Canada, Australia and New Zealand – that regulates both the 'direct entry' for newcomers and the process of acquiring permanent residency status for migrant workers already employed on temporary work permits. A points system can be a relatively transparent and flexible way of regulating admissions. It is important to note that a points system is only meant to regulate the acquisition of permanent residence. Given the importance assigned to individual characteristics rather than to an offer of employment as the principle factor deciding eligibility, it is inherently unsuitable for regulating the selection and admission of migrant workers on a temporary basis. Consequently, a points system is meant to *complement* rather than replace temporary employment permit programmes.

*Increasing enforcement of employer sanctions and employment laws*

One of the most important factors leading to illegal immigration and illegal working is the failure to effectively punish employers who illegally employ migrant workers. This is because, in contrast to all other immigration control policies, employer sanctions serve the important purpose of addressing the *demand* for illegal migrant labour. Without policies that minimise demand, policies aimed at minimising supply (border control, deportations) are likely to be much less effective than they could be.

There is thus a clear case for increasing efforts to enforce Ireland's existing employer sanctions. This is, of course, largely a question of resources, which in turn depend on the political will to enforce the law against employers.

Furthermore, the employment of non-EEA nationals registered as students needs to be more actively monitored and regulated. The government's recent announcement that, as of April 2005, access to casual employment will be restricted to those students who are attending a full-time course of at least one year's duration is an important step. Of course, as always, the policy will only be effective if it is systematically enforced. Another potential policy reform could include a more stringent system of accrediting/licensing and monitoring teaching institutions.

Finally, in order to more effectively enforce Ireland's employment laws, the labour inspectorate needs to take a more active role in collecting and evaluating systematic evidence on the employment conditions of migrant workers. A first step would be to record and publish the nationality of the workers making complaints about employment conditions to the labour inspectorate.

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All errors and views expressed in this paper are the responsibility of the author alone.



## Introduction

Ireland's economic boom during the 1990s brought unprecedented levels of prosperity and helped transform it into a 'country of immigration'. For the first time in its history, Ireland experienced a significant inflow of migrants – both workers and asylum seekers – from outside the European Union (EU). To respond to this new and rapidly growing phenomenon, immigration policies had to be developed in a very short period of time.

The evolution of Ireland's immigration policies since the late 1990s, and their impact on the immigration and employment of non-nationals, has been remarkable in many ways. First, Ireland has maintained labour immigration policies that are among the most liberal in Europe. In the absence of quotas, the number of work permits issued to non-Irish migrant workers increased dramatically from less than 6,000 in 1999 to almost 50,000 in 2003. Moreover, the majority of migrant workers coming to Ireland in recent years have been legally employed in relatively low-skilled occupations. This is in contrast to many other European countries' labour immigration programs, which are regulated by quotas and which often exclude low-skilled occupations.

Second, as another reflection of its relative openness to economic immigration, Ireland granted citizens of the ten new EU member states free access to the Irish labour market immediately upon EU enlargement on 1 May, 2004. Only the UK and Sweden shared this policy; all other countries of the pre-enlarged EU (EU-15) decided to continue employment restrictions for accession state nationals.

Third, with regard to regulating the inflow of asylum seekers, an Irish Supreme Court judgment in January 2003 removed the automatic right to permanent residence for non-national parents of Irish-born children. This ruling followed a rapid increase in the number of applications for asylum, some of which were thought to be unfounded and in abuse of Ireland's asylum system and citizenship laws. More recently, the government proposed a national 'citizenship referendum' to eliminate an Irish-born child's automatic right to citizenship when the parents are not Irish nationals. The public

overwhelmingly passed this referendum in June 2004. Both measures led to heated debates in Ireland and were noted abroad.

After five years of significant immigration and rather *ad-hoc* immigration policymaking, the Irish government seems to be in the process of formulating a more comprehensive and managed approach. While it remains to be seen how policies will develop in the next few years, the government currently appears to favour a 'skills-based' policy that increases the restrictions on the employment of workers from outside the enlarged EU, especially in low-skilled occupations.

### 1.1 Objectives and research questions

This paper aims to contribute to current debates about how to best manage the immigration and employment of non-EU nationals in Ireland. Although taking a general approach that considers all potential avenues for migrating and taking up employment in Ireland, the paper focuses on *labour immigration policy*, as opposed to humanitarian policies that are concerned with refugees and asylum seekers. Of course, it needs to be added that the very distinction between these two categories is itself a key policy issue – as evidenced by the frequently heard argument that 'bogus asylum seekers' or 'disguised economic migrants' need to be sorted out from 'genuine refugees'.

It should also be stated at the outset that the discussion of labour immigration policy in this paper focuses on the *admission* and *employment* of migrant workers rather than on the equally important but analytically distinct issues to do with their (more long-term) social and economic integration.

Having defined the broad scope of analysis, it is useful to distinguish between the following four questions that require *separate* discussions in the debate and design of Ireland's (or indeed any country's) labour immigration policy:

- 1 what have been the labour immigration flows and policies in Ireland?
- 2 what *are* the consequences of international labour migration to Ireland?
- 3 what *should be* the principles and objectives of Ireland's labour immigration policy?
- 4 what policies are best suited to achieve these objectives?

This paper does *not* aim to give comprehensive answers to these questions. Its objective is to provide information and analysis that might be used to inform the discussion. To this end, it is first of all necessary to recognise that the four questions – and the discussions required in answering them – differ in important ways.

The first question asks about the *facts* regarding current and past immigration and immigration policies. The second question pertains to *impacts*, a concept that requires an analytical investigation rather than just a collection of facts and descriptions. As it has been the case in many other high income countries – including those with much longer histories of immigration than Ireland – Ireland’s public debates, and policymaking, on labour immigration have been hampered by a lack of evidence about migration and its consequences, thus leaving policy makers in the difficult position of having to design labour immigration policies based on an incomplete and highly contested evidence base.

The third question is a *normative* one. It needs to be answered through a discussion about the values and ethical considerations that underlie, or *should* underlie, the design of Ireland’s labour immigration policies, particularly the choice of policy objectives. This discussion is necessary because international labour migration generates a complex set of economic and social costs and benefits for the receiving country (Ireland), for migrant workers and for their countries of origin. These consequences may sometimes conflict with each other, and therefore policies cannot be made without evaluating and ultimately accepting certain trade-offs. This clearly requires an underlying ethical (normative) framework.

Finally, the answer to the fourth question needs to be based on a discussion and understanding of the *feasibility* of the various policy options to manage labour immigration. This requires an understanding of the potential policy lessons from other countries as well as the local institutional capacities for implementing and enforcing policies in Ireland.

## 1.2 Methodology

This report draws on data provided by various government departments and institutions, including (list not exhaustive): the Department of Enterprise, Trade and Employment (employment permit data); the Department of Justice, Equality and Law Reform (immigration data); the Department of Social and Family Affairs

(PPS numbers); FÁS; and the Central Statistics Office (immigration and employment data). The data drawn upon in this study was provided following email requests and/or meetings with civil servants in the relevant departments. In some cases – such as in the case of work permits data provided by the Department of Enterprise, Trade and Employment (DETE)<sup>1</sup> – the relevant databases were supported by ‘non-relational’ software. As a result, the process of retrieving raw data from some of the government’s own databases, and making the data available for analysis, required significant time and effort on the part of a number of civil servants. Only a small part of the data used in this report are readily available on publicly accessible websites or reports.

The research also involved some twenty-five interviews with key informants and stakeholders in Ireland. They included officials and representatives from (list not exhaustive): each of the relevant government departments; the Irish Business and Employers Confederation (IBEC); the Chambers of Commerce of Ireland (CCI); the National Recruitment Federation; the Irish Congress of Trade Unions (ICTU); the Services, Industrial, Professional and Technical Union (SIPTU); the National Economic and Social Council (NESC); the Immigrant Council of Ireland (NGO working on migration issues in Ireland); the Migrant Information Centre (NGO); a small number of employers and migrant workers in Ireland; and academics at TCD, UCD and UCC and the ESRI.

In addition to the research in Ireland, the report also draws on an extensive review of the relevant academic and policy literature on migration issues in other countries. In doing so, it draws on the author’s previous work on labour migration: especially on the discussion of ethical issues in labour immigration policy in Ruhs (2005) and Ruhs and Chang (2004); the comparative discussion of temporary foreign worker programmes in Ruhs (2003a); and on the detailed analysis of Irish work permits data in Ruhs (2003b).

A recent draft of this paper was presented to the Management Board of the Department of Enterprise, Trade and Employment (September 2004). An earlier draft was presented at a work-in-progress seminar organised by the Policy Institute at Trinity College

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<sup>1</sup> For an in-depth analysis of raw work permits data provided to the author by the DETE, see Ruhs (2003b).

Dublin (May 2003).<sup>2</sup> The research for this report began in early 2003 and ended in early 2005.

### **1.3 Structure and major arguments**

This study contains five relatively self-contained chapters that are based on the research questions above. Chapter 2 gives an overview of past trends in immigration and immigration policy in Ireland. It discusses the various channels of immigration, clarifying the degree of access to the Irish labour market associated with each of them. It shows that, although the work permit system has been the main tool for regulating the immigration and employment of non-EU nationals, there are also several other channels of immigration, such as student immigration, that can lead to employment in Ireland, legally or illegally. A comprehensive labour immigration policy thus needs to take account of all those channels.

Chapter 3 carries out a more detailed discussion of Ireland's work permit policies since 1999. It argues that there has been a succession of two distinct policy regimes: an employer-led system with very little government intervention until April 2003; and a more interventionist system characterised by the introduction of new policies aimed at more actively managing the number, nationalities and sectors of employment of migrant workers since April 2003 – the time when the government's decision to grant accession state nationals free access to the Irish labour market immediately upon EU enlargement on 1 May 2004 was formally brought into law by the passing of the Employment Permits Act 2003.

Chapter 4 categorises and discusses the consequences of international labour migration for the receiving country, sending country and migrants themselves. The discussion is based on a review of some of the major theoretical and empirical studies carried out in other countries, and a subsequent discussion of the state of our knowledge about the impacts of migration to Ireland. It concludes that, in contrast to the growing theoretical and empirical literature on immigration in other countries, very little is known about the impacts of migration to Ireland. There are thus huge gaps in the evidence base for Ireland's labour immigration policy-making.

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<sup>2</sup> A copy of the presentation is available on The Policy Institute's website: <http://www.policyinstitute.tcd.ie>.

Chapter 5 discusses some of the fundamental considerations that enter, or *should* enter, the evaluation of the consequences of migration and the choice of policy objectives. It first emphasises the key role of the underlying ethical framework and then suggests, at a theoretical level, five core considerations of a 'balanced approach' that takes account of the existing realities in labour immigration policy-making and, at the same time, recognises the active promotion of the interests of migrant workers and of their countries of origin as a key policy objective. The chapter concludes by identifying a set of basic policy principles for the design of labour immigration policy in Ireland.

Chapter 6 – the concluding chapter of this study – discusses the need and potential policy options for: re-adjusting Ireland's current work permit system; introducing a permanent immigration programme; strengthening the regulation of the employment of foreign students; and combating illegal immigration and illegal working.

## Immigration and the labour market in Ireland: an overview

This chapter briefly reviews the broad trends in immigration and immigration policy in Ireland since the early 1990s. It aims to clarify the various channels of immigration that workers from within and outside the European Union<sup>3</sup> may use to migrate and take up employment in Ireland. In doing so, it ‘sets the scene’ for the more in-depth analysis of the work permit system that follows in chapter 3.

### 2.1 Migration flows and their impact on Ireland’s population

Ireland’s long history as a country of significant emigration is well known and documented. In the period 1871-1961, the average annual net emigration from Ireland consistently exceeded the natural increase in the Irish population which, therefore, shrank from about 4.4 million in 1861 to 2.8 million in 1961. Caused primarily by Ireland’s lagging economic development, net-emigration was particularly high in the ‘age of mass migration’ (1871-1926) and in the post-World War II era (1951-1961).<sup>4</sup>

With the exception of the 1970s when, for the first time in Irish history, net migration to Ireland was positive, outflows continued to exceed inflows until the early 1990s.<sup>5</sup> An estimated 3 million Irish citizens currently live abroad, of whom 1.2 million were born in Ireland<sup>6</sup> – the majority of these citizens live in the US and the UK.

Unprecedented economic growth during the 1990s transformed Ireland from a country of net-emigration to a country of net-immigration. As shown in Figure 1, while total emigration flows

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<sup>3</sup> Henceforth in this paper, the term EU-15 refers to the fifteen countries belonging to the EU before its enlargement on 1 May 2004. The term EU-25 when used refers to the current members of the (enlarged) EU.

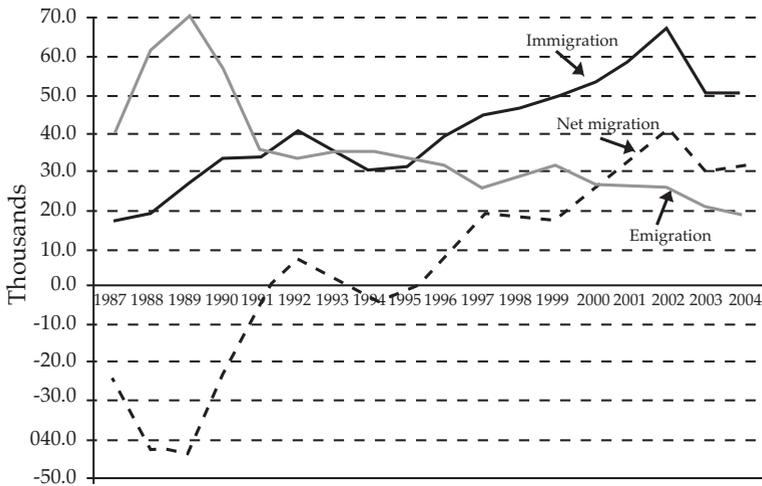
<sup>4</sup> During the period 1870-1900, Ireland’s average annual emigration rate of 9.61 emigrants per 1,000 average population (equivalent to an average of 48,519 emigrants per year) was the highest in the world (Willcox, 1929).

<sup>5</sup> See Table A1. All Tables beginning with an ‘A’ may be found in the Appendix.

<sup>6</sup> Department of Foreign Affairs (2002).

have remained significant (with an annual average of about 24.8 thousand during 2000-2003), total inflows increased markedly in the mid-1990s. In 1996, Ireland reached its 'migration turning point' – the last country to do so among the members of the EU15 – and has been a country of net-immigration ever since.<sup>7</sup>

Figure 2.1: Immigration, emigration and net-migration in Ireland, 1987-2004



Source: Central Statistics Office (see Table A2)

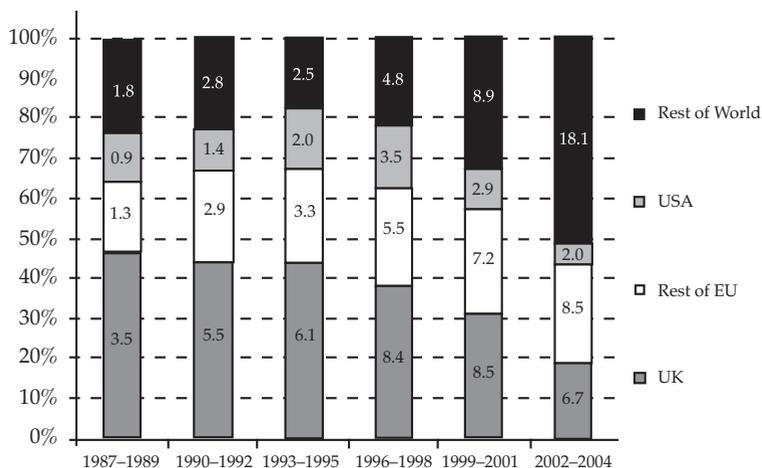
Notes: All years ending in April.

Although the number of Irish return migrants has increased almost continuously since 1987 (peaking at 27,000 in 2002), their relative share in total immigration fell from about 65 per cent in the late 1980s to just under 50 per cent in the late 1990s and to 37 per cent during 2002-2004. Consequently, non-Irish migrants, especially from outside the EU-15, have driven most of the recent growth in

<sup>7</sup> Other EU countries that reached their migration turning points only relatively recently include Portugal (1993), Spain (1991), Italy (1988), Belgium (1988) and the UK (1982). This is based on Eurostat data on net migration flows to EU countries since 1950. For the purposes of this study, a country's migration turning point is defined as the year after which there have been no sustained periods of net emigration.

Ireland's immigration. Their relative share of total inflows increased from only 13 per cent in 1987-89 to 36 per cent in 2002-04. Non-EU-15 immigrants have constituted 57 per cent of all non-Irish immigrants arriving in Ireland in 2002-2004, up from 36 per cent in the late 1980s (see Figure 2.2).

Figure 2.2: Non-Irish migration flows to Ireland by broad nationality, percentage distribution and average annual numbers (thousands), 1988-2004



Sources: Central Statistics Office (see Table A2)

Notes: All years ending in April.

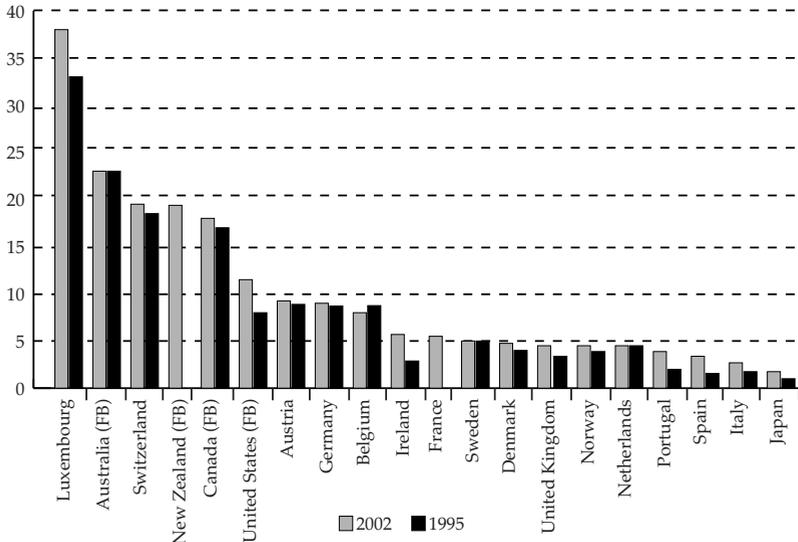
The increase and change in the composition of migration to Ireland has obviously had a significant impact on the country's population. The share of foreign-born persons living in Ireland rose from 6 per cent in 1991 to over 10 per cent in 2002 (including about 1.3 per cent born in Northern Ireland). During the same period, the share of residents born outside the EU-15 increased from 1 to 3 per cent.<sup>8</sup> In 2002, the first year when the Census of the Population included a question on nationality, there were about 88,500 non-EU-15 nationals – about 2 per cent of the total population – usually resident in Ireland.<sup>9</sup>

<sup>8</sup> See Table A3.

<sup>9</sup> See Table A4.

Comparative analysis with migration trends in other countries underlines just how dramatic and rapid the above-described changes in the inflows and stock of non-nationals in Ireland have been. During 1990-94, Ireland was the only one among the EU15 countries with a negative net migration rate (average annual of -0.4 per 1,000 population). In contrast, during 1995-99, Ireland's average annual net migration rate (4.3) was second highest within the EU15, surpassed only by that of Luxembourg.<sup>10</sup> According to recently released OECD data (see Figure 2.3), by 2002, the estimated share of non-nationals in Ireland's population had surpassed those of the UK and France, countries with much longer histories of immigration.

*Figure 2.3: Foreign or foreign-born persons in total population in selected OECD countries, 1995 and 2002*



Source: OECD (2004), website update of data given in OECD 2003, downloadable at [www.oecd.org](http://www.oecd.org)

<sup>10</sup> Eurostat, Demographic Statistics, data downloaded from the website of the European Commission.

## 2.2 EU enlargement and its impact on migration flows to Ireland

As a member country of the EU, Ireland's labour immigration policies make an important distinction between persons from within and outside the European Economic Area (EEA – comprised of the EU member states plus Norway, Iceland, and Liechtenstein). EEA nationals enjoy the unrestricted right to migrate and take up employment in Ireland. This means their numbers and selection – by skill level and nationality for example – cannot be directly influenced by Ireland's immigration policies. During 2000-04, EEA nationals constituted almost half of all non-Irish inflows and almost two-thirds of all non-nationals living in Ireland.<sup>11</sup>

Long before EU enlargement on 1 May 2004, the EU-15 and the ten accession countries agreed on a 'transitional system' that would allow the old member states to continue to restrict employment of accession state workers. The restrictions can be in place for a maximum period of seven years.<sup>12</sup>

The Irish government made one of its most significant labour immigration policy decisions in the context of this EU enlargement. Together with the UK and Sweden, Ireland granted accession state nationals unrestricted access to its labour market immediately upon EU enlargement. This change in legal status and access to the labour market applied to both newcomers (i.e. arrivals after May 1), and to those accession state nationals who had already been resident/working in Ireland before EU enlargement, either legally or illegally. For the latter, May 1 was effectively an amnesty.

In contrast to the UK, the Irish government does not require accession state nationals to acquire special registration certificates after taking up employment in Ireland.<sup>13</sup> As a result, the only direct way of assessing the number of accession state nationals working in Ireland is through an analysis of PPS (personal public service) numbers, which all employees must hold. The government thus asked the Department of Social and Family Affairs, which allocates PPS numbers, to monitor and report on the number of PPS numbers issued to accession state nationals following EU enlargement.

Data provided by the Department of Social and Family Affairs indicate that more than 53,000 people from the accession countries

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<sup>11</sup> See Tables A2 and A4.

<sup>12</sup> See European Commission 2002.

<sup>13</sup> In the UK a registration scheme for accession state nationals was introduced to monitor inflows.

were issued with PPS numbers during May-December 2004. This is more than ten times the number of new work permits issued to accession state nationals during May-December 2003. About half of the PPS numbers issued to accession state nationals since May 2004 have been issued to Polish nationals (see Table 2.1).

*Table 2.1: New PPS numbers issued to accession state nationals in May-Dec 2004, and new work permits issued to accession state nationals in May-Dec 2003*

	New PPS numbers issued in May-Dec 2004	New work permits issued in May-Dec 2003
Poland	25,222	1,923
Lithuania	11,410	1,236
Latvia	5,769	1,081
Slovakia	4,513	214
Czech Republic	3,061	288
Hungary	1,753	113
Estonia	1,637	483
Malta	130	9
Slovenia	64	4
Cyprus	23	0
All accession state nationals	<b>53,582</b>	<b>5,351</b>

*Source:* Department of Social and Family Affairs (for PPS numbers); and Department of Enterprise, Trade and Employment (for work permit data); Dublin; for monthly data by nationality, see Table A5

The available PPS data do not allow a distinction between newcomers and those accession state nationals who had already been illegally working in Ireland before 1 May (those working legally simply kept their PPS numbers and are thus not included in the new figures released by the Department of Social and Family Affairs). However, one may reasonably speculate that a significant number of accession state nationals acquiring PPS numbers since 1 May 2004 would have been people who had been illegally employed in Ireland before 1 May and who used EU enlargement to regularise their status. This is what has happened in the UK where over 90,000

accession state nationals registered for work in May-September 2004, with up to 45 per cent already in the UK before 1 May 2004.<sup>14</sup>

The more than 50,000 workers from the new EU member countries who took up legal employment in Ireland during May-December 2004 – either as newcomers or by regularising their status – constitute about 2.6 per cent of Ireland's labour force. This is a significant share, both in absolute terms and relative to the UK where the 90,000 workers registering for work between May-September 2004 made up only about 0.3 per cent of the labour force.

### **2.3 Channels of immigration and access to the labour market for non-EU nationals**

The legal channels of immigration and employment for non-EEA nationals – which Ireland can and does regulate – may be classified into employment-based channels and non-employment-based ones (see Figure 2.4). The term 'employment-based' is meant to capture the idea that the migrant's *primary* reason for coming to Ireland is to work. Of course, it is important to add that some of the other, non-employment-based channels of immigration may also – immediately or after some time – facilitate some degree of legal access to the Irish labour market (e.g. students and working holidaymakers may work part-time; dependents may be given permission to work; and asylum seekers may eventually be recognised as refugees and thus gain the right to work). But the point is that in those cases employment is not meant to be the primary reason for migration.

The Employment Permits Act 2003 regulates employment-based immigration. There are four major types of employment permits: work permits; work visas and work authorisations; permits for intra-company transfers; and permits for trainees. In addition, there are separate 'business permits' for non-EEA nationals who wish to

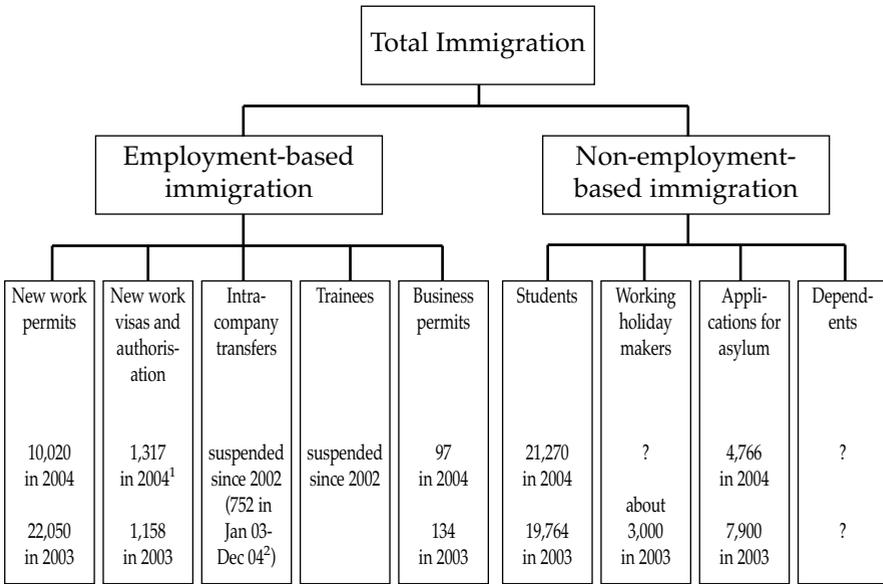
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<sup>14</sup> See Home Office UK et al (2004) (Accession Monitoring Report). It is interesting to note that the number of accession state nationals registering for work in the UK as 'newcomers' during May-September 2004 significantly exceeded even the most 'alarmist' predictions of about 40,000 newcomers per year (see for example Migration Watch, 2003). A study commissioned by the UK Home Office predicted that EU enlargement would lead to an average annual *net* migration (i.e. inflows *minus* outflows) of 5,000-13,000 accession state nationals for the period up to 2010 (Dustmann, Casanova, Fertig et al, 2003). Unlike the British government, the Irish government had not commissioned any studies predicting the likely number of migrants from the new EU member states taking up legal employment in Ireland after EU enlargement.

come to Ireland to set up a business. The major legal channels for non-employment-based immigration include the following groups of people: students, working holidaymakers, asylum seekers and dependents.

The remainder of this section briefly reviews each of these modes of entering and staying in Ireland, and identifies the associated conditions – if any – that regulate the migrant’s access to the Irish labour market.<sup>15</sup>

Figure 2.4: Channels of legal immigration into Ireland for non-EU nationals



Sources: DETE, DJELR

Notes: Short-term immigration for tourist purposes is excluded.

? indicates that the data are currently not available

<sup>1</sup> preliminary data for January-November 2004

<sup>2</sup> issued on a concessionary basis

<sup>15</sup> Most of the information in this section is taken from official publications of the Department of Enterprise, Trade and Employment and the Department of Justice, Equality and Law Reform (DJELR). Information provided by Ingoldsby (2002) and the Immigrant Council (2003a, 2003b) was also helpful in compiling this section.

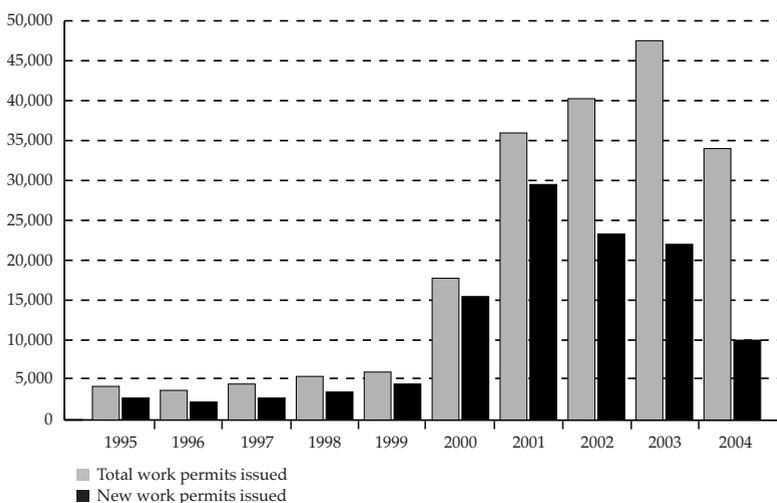
### 2.3.1 Work permits

The great majority of non-EEA nationals who have legally taken up full-time employment in Ireland since the late 1990s have been admitted under the work permit system, which has been administered by the Department of Enterprise, Trade and Employment.

Work permits are valid for a maximum period of one year and may be renewed on an annual basis. Work permits are issued to employers rather than migrant workers and they are not transferable. This means that a migrant worker employed on a work permit must not work for any employer other than the one specified on the permit.

As will be discussed in more detail in chapter 3, Ireland's work permit policies have evolved in a succession of two distinct policy regimes. Until April 2003, Ireland's work permit policies were almost entirely employer-led, with very little government intervention. As a result, the number of work permits issued to non-EEA nationals was allowed to increase dramatically from 5,750 in 1999 to 47,707 in 2003, which is equivalent to an increase of more than 700 per cent (see Figure 2.5). With the number of new permits issued actually declining since 2001, the growth in the total number of permits issued during 2001-03 was driven by a rapid increase in renewals, whose share in total permits rose from 19 per cent in 2001 to 53 per cent in 2003.

Figure 2.5: Total and new work permits issued, 1995-2004



Source: Department of Enterprise, Trade and Employment. See also Table A6

The government's decision to grant workers from the ten countries acceding to the EU free access to the Irish labour market immediately upon EU enlargement on 1 May 2004 (see the discussion above) was followed by the emergence of a more interventionist work permit system in Ireland. Since April 2003 – when the Employment Permits Act 2003 was passed – a number of policies have been introduced that make it more difficult – or in some cases impossible – to obtain new work permits for employing migrant workers from outside the enlarged EU, especially in low-skill occupations. Together with EU enlargement – which meant that the 16,000<sup>16</sup> accession state nationals already employed on work permits at the time 'dropped out' of the work permit system – this shift toward a more restrictive and skills-based permit system contributed to the decline in work permits issued in 2004.

### 2.3.2 *Work visas and work authorisations*

The work visas and work authorisations scheme is intended to be Ireland's 'skilled and highly skilled migrant worker programme'. It was introduced in 2000 and covers selected jobs in information and computing technologies, construction professionals, and a broad range of medical, health and social care professions (including medical practitioners, nurses, speech and language therapists, occupational therapists, radiographers, physiotherapists, social workers and psychologists).<sup>17</sup>

Like work permits, work visas/authorisations are only issued after the worker has secured a job in Ireland. However, they differ from work permits in two important ways. First, work visas/authorisations are valid for two years and may be renewed for another two years. Second, they are issued directly to workers

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<sup>16</sup> During May 2003-April 2004, 16,375 permits (including 8,085 new permits) were issued to workers from accession countries, accounting for 35 per cent of all permits (and 42 per cent of new permits) issued during that period. Of course, a number of migrant workers who received their work permits during that period may have already left Ireland by May 2004. Given that the great majority of permits are issued for one year, the number of workers who left is, however, likely to be rather small.

<sup>17</sup> For a full list of occupations covered under the working visa and working authorisation scheme, see <http://www.entemp.ie/publications/labour/2004/workauthorisation.doc>.

rather than to their employers in Ireland.<sup>18</sup> Holders of work visas/authorisations may freely change employers within the same skills category after arrival in Ireland as long as they continue to have permission to work and reside in the country.

Compared to work permits, the number of work visas and authorisations issued has been quite small: 10,300 during 2000-2004.<sup>19</sup> Of the 1,158 work visas and authorisations issued in 2003, the majority (798) were taken up by registered nurses and other medical staff.

### *2.3.3 Intra-company transfers and trainees*

The remaining two employment permit programmes – the programme for trainees and the intra-company transfer scheme – have been indefinitely suspended since late 2002. The suspension was triggered by the DETE's concern about the potential for abuse of these programmes by both companies and workers. In particular, the DETE was concerned that Irish companies were abusing these schemes to bypass the work permit system and the domestic labour market. According to the DETE, 'there is increasing concern about the role of some recruitment agencies in such schemes, as well as the fact that many of the staff currently being transferred are low-skilled or unskilled, whereas the scheme was intended for very limited numbers of highly skilled or key personnel only'.<sup>20</sup>

Prior to its suspension, the purpose of the trainee programme was to enable persons coming to Ireland from an overseas company to engage in paid or unpaid training at an Irish-based company. The employment permit for trainees was valid for three years. The intra-company transfer scheme was intended to facilitate the temporary transfer of senior management and key personnel within international companies with offices in Ireland. Persons posted on this scheme were given an employment permit for a maximum period of four years. Their employment was restricted to the company who transferred/seconded the workers to its Ireland office.

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<sup>18</sup> Although the DETE retains all formal responsibilities and takes all substantive decisions about the programme, applications for work visas/authorisations – made by workers themselves – are processed at Irish Consulates and Embassies abroad. Workers coming from countries whose nationals require a visa to enter Ireland are issued with a work visa, while those from countries that do not require a visa to enter Ireland are given a work authorisation.

<sup>19</sup> 1,317 work visas/authorisations were issued in January-November 2004.

<sup>20</sup> Press Release by the DETE, 29 October 2002.

Despite the official suspension of the intra-company transfer scheme, the DETE has, on a concessionary basis, issued 752 permits for intra-company transfers during 2003-2004.

#### 2.3.4 *Business permits*

Non-EEA nationals who wish to come to Ireland to set up a business require a business permit, which is issued by the DJELR. Business permits are valid for one year, and may be renewed for another year. After two years, longer-term permits may be granted. To qualify for a business permit, a number of conditions need to be met, including a transfer to Ireland of capital in the minimum sum of €300,000 and the creation of at least two new jobs for EEA nationals.<sup>21</sup> In 2004, 97 persons were granted business permits, down from 134 in 2003.

#### 2.3.5 *Students*

Until recently, all non-EEA nationals who came to Ireland for the purpose of studying – including those who came for short-term English language classes – were entitled to take up casual employment (twenty hours part time work per week, or full time work during vacation periods). Under revised arrangements that will come into force in April 2005, access to casual employment will be restricted to those students who are attending a full-time course of at least one year's duration leading to a qualification recognised by the Minister for Education and Science.

After completing their studies in Ireland, non-EEA students may apply for a work visa/authorisation, but only if their intended employment in Ireland falls within the designated occupations eligible for this scheme. There is no corresponding mechanism for students to acquire a work permit after completion of their studies.

In 2004, there were 21,270 registered non-EEA students in Ireland (about half of whom were from China).<sup>22</sup> Census data suggest that, in 2002, there were only about 11,000 non-EEA nationals studying in Ireland.

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<sup>21</sup> For a full list of criteria, and a more detailed description of the business permit system, see [www.justice.ie/80256E01003A21A5/vWeb/flJUSQ5YUK2K-en/\\$File/Business+Permission.pdf](http://www.justice.ie/80256E01003A21A5/vWeb/flJUSQ5YUK2K-en/$File/Business+Permission.pdf).

<sup>22</sup> Data provided by the Department of Justice, Equality and Law Reform. There is no information about how many of the registered non-EEA students are doing casual work.

### 2.3.6 Working holidaymakers

People aged 18-30 from Australia, Canada, New Zealand and – since January 2005 – Hong Kong can apply for working holiday visas, giving them permission to work casually to enable them to spend an extended holiday in Ireland. A working holiday visa is valid for one year, but the holder must not engage in work with any one employer for a period in excess of three months.<sup>23</sup> Working holidaymakers may, however, apply for a work permit to extend their stay, provided that they are still in employment with the employer wishing to retain them. Employers applying for new work permits for working holidaymakers are exempt from the requirement to first check for the availability of EEA nationals. Approximately 3,000 working holidaymaker visas were issued in 2003.<sup>24</sup>

### 2.3.7 Asylum seekers

The number of persons seeking asylum in Ireland increased dramatically from only 362 in 1994 to 11,634 in 2002, before falling again to 4,766 in 2004 (see Figure 2.6). In 2002 – the year when applications peaked – the top six stated countries of origin of asylum seekers were Nigeria (34.8 per cent), Romania (14.4 per cent), Moldova (4.6 per cent), Zimbabwe (3.1 per cent), Ukraine (3 per cent), and Poland (2.7 per cent).<sup>25</sup>

Asylum seekers do not have the right to take up employment in Ireland. If, however, their applications are successful and they are officially recognised as refugees, they acquire full employment and social rights. During 1995-2004, the country officially recognised 6,794 persons as refugees (see Table A7).

Many attribute the recent decline in asylum applications to new laws regarding the legal status of non-national parents of children born in Ireland. Until recently, the country used to grant citizenship to anybody born in Ireland (the *jus soli* principle), and the non-national parents of an Irish-born child used to enjoy an almost automatic right to residence in Ireland. This policy led to what the government – and part of the public – perceived as an unacceptably high number of non-nationals (especially asylum seekers) giving

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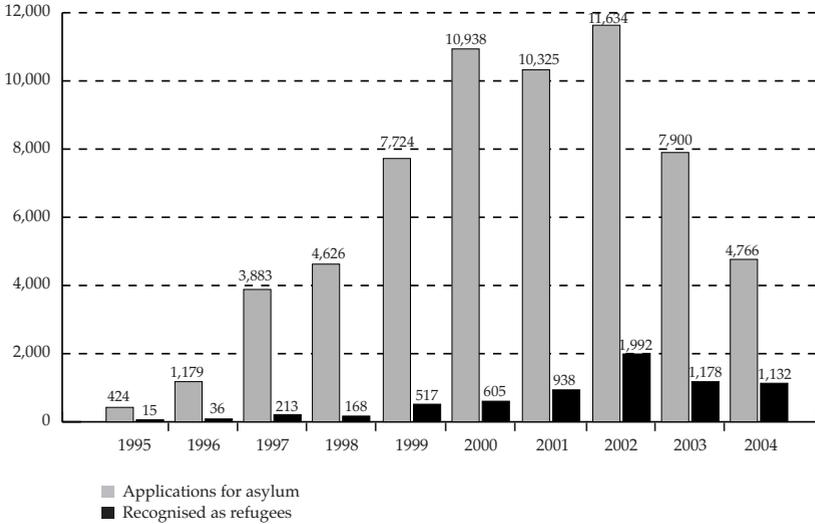
<sup>23</sup> See <http://193.178.1.205/services/visa/documents/WorkingHolidayApplication.pdf>.

<sup>24</sup> The figure for 2004 is not yet available.

<sup>25</sup> ORAC 2004.

birth to children in Ireland, and subsequently applying for permission to stay. Prior to January 2003, about 11,000 families with Irish-born children lawfully applied for residency.

Figure 2.6: Applications for asylum in Ireland, 1995-2004



Source: Office of the Refugee Applications Commissioner (ORAC) 2004; also see Table A7

To address this issue, the Supreme Court ruled in January 2003 that non-national parents of children born in Ireland no longer had an automatic right to residency. Instead, residency in such cases would be decided on a case-by-case basis. The factors to be taken into account include the length of stay of families in Ireland, their circumstances, and the 'general requirements of the common good'.

In early 2004, the government took a more drastic step. It proposed a referendum to remove the constitutional guarantee of citizenship for children born to non-national parents in Ireland. This was partly in response to a small number of well-publicised cases of non-nationals arriving heavily pregnant in Ireland and giving birth a short time after their arrival. The Minister for Justice, Equality and Law Reform concluded that: '... non-national parents, whether based in Ireland or not, quite reasonably perceive an advantage by

giving birth in Ireland to a child who thereby becomes an Irish, and thus EU, citizen'.<sup>26</sup> The citizenship referendum, held on June 11, 2004, was overwhelmingly accepted, with 79 per cent of the votes in favour of the change.<sup>27</sup> The legislation necessary to implement the referendum was enacted in late 2004 (Nationality and Citizenship Act 2004) and came into force on 1 January 2005.<sup>28</sup>

A third measure thought to have contributed to the decline in asylum application numbers has been the 'safe country of origin' principle, now incorporated into Ireland's immigration laws. Since September 2003, safe countries of origin include all 10 EU accession states, plus Bulgaria and Romania; Croatia and South Africa were added to the list in December 2004. Asylum applications from these countries are still considered, but they are processed using an accelerated procedure that requires each applicant to rebut the presumption that they do not need refugee protection.

### *2.3.8 Dependents*

Another route of legal entry and stay in Ireland for non-EEA nationals is through family-reunification with a resident in Ireland.<sup>29</sup> For this purpose, family members are defined to include: the resident's spouse; children aged under 21 and children over 21 if they are dependent on the resident; the spouses of any children of the resident and his/her spouse; dependent parents and grandparents of the resident and his/her spouse; and other dependent relatives in the ascending line of the resident and his-her spouse.

Slightly different rules apply to family members of Irish and other EEA nationals on the one hand, and to family members of non-EEA nationals living in Ireland on the other hand. The former are allowed to join their family member in Ireland as long as the

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<sup>26</sup> McDowell (2004).

<sup>27</sup> The voter turn out was 60 per cent.

<sup>28</sup> Importantly, in December 2004, i.e. shortly before the Nationality and Citizenship Act 2004 came into force, the Irish government decided that migrant parents of Irish children born before 1 January 2005 will be allowed to apply for residency in Ireland. This includes both parents who had already applied for residency before January 2003 – the time of the Supreme Court ruling (see text) – and parents of children born during January 2003-January 2005. See Press Release by the Department of Justice, Equality and Law Reform, 14 December 2004.

<sup>29</sup> The information in this section is partly taken from Immigrant Council (2003a) and Ingoldsby (2002).

person in Ireland is able to support the immigrating family member without recourse to public funds. Importantly, non-EEA nationals who migrate to Ireland through family-reunification with an Irish or other EEA national enjoy the unrestricted right to take up employment in Ireland.

Non-EEA nationals may also join a non-EEA family member in Ireland if they can be supported without recourse to public funds. Non-EEA nationals from countries that do not require visas for Ireland may apply for family unification immediately after arriving in Ireland. Persons from visa-requiring countries may only do so after they have been in Ireland for twelve months (three months for holders of working visas) and have secured permission to remain for at least another twelve months.

In general, non-EEA nationals who have joined a non-EEA family member in Ireland under the family unification programme may only take up employment in Ireland after their prospective employers have secured work permits for them. A recently introduced special regulation relates to the spouses of selected skilled migrants. Since February 2004, the spouses of researchers, academics and medical professionals employed on work visas/authorisations or work permits haven been given greater ease of access to employment in Ireland by: i) not requiring their employers to advertise the job with FÁS in advance of making a work permit application; ii) accepting applications for jobs in categories that would otherwise be ineligible for work permits; and iii) exempting the application from the work permit fee.<sup>30</sup> The rationale of this policy is to make the employment of non-EEA workers in occupations that suffer from significant labour shortages, particularly nurses, more attractive.

According to the Department of Justice, Equality and Law Reform, the number of visas issued to dependents for 2004 (or any of the previous years) is 'unavailable'.

### 2.3.9 *Illegal immigration and illegal working*

Given its geography, the level of illegal immigration in Ireland is likely to be fairly low. Unlike the US, for example, Ireland does not

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<sup>30</sup> See the DETE's 'Guide to work permits for spouses of employment permit holders', available at [www.entemp.ie/labour/workpermits/wp\\_spouse\\_guidelines.pdf](http://www.entemp.ie/labour/workpermits/wp_spouse_guidelines.pdf) (accessed on 13 July 2004).

have any porous land borders with migrant-sending countries.<sup>31</sup> Illegal entry into Ireland is probably easiest via Northern Ireland, which may be easily accessed from the UK. Furthermore, because of the Common Travel Area agreement between Ireland and the UK, there are no passport controls for Irish and UK citizens travelling between the two countries.

Illegal working of non-EEA nationals – which may follow legal or illegal immigration – is likely to be more pervasive. For example some migrant workers may not leave Ireland after their employment permits expire. Similarly, some non-EEA students, struggling to make ends meet amid rapidly increasing living costs, may choose to work more than the legally allowed twenty hours per week. There is also anecdotal evidence that some English ‘language schools’ effectively operate as a front for selling visas to non-EEA nationals who wish to migrate and work in Ireland without going through the work permit system.

In recent years, Ireland has passed a number of laws aimed at combating illegal immigration. Together, these laws provide a legal basis for deporting non-nationals in violation of Ireland’s immigration laws, ban the trafficking of illegal immigrants and the carrying of a passenger who does not have proper immigration documents, and financially penalise or imprison employers and workers who do not comply with the Employment Permits Act 2003. In addition, some state benefits have been restricted in regard to illegal residents.

Another measure to curb illegal immigration and illegal working has been an increase in the number of deportations, up from 188 in 2000 to 663 in 2004.<sup>32</sup> To facilitate repatriation, Ireland has struck return agreements with Poland, Nigeria, Romania and Bulgaria and has also engaged the International Organisation for Migration (IOM) to operate voluntary return programs on its behalf.

The lack of hard data or any systematic evidence makes it difficult to assess the extent to which Ireland’s current immigration and employment laws are actually enforced. The increased level of legislation and deportations suggests that the government is expanding its efforts to combat illegal immigration.

At the same time, there is no evidence to suggest a serious crackdown on illegal working. Since the enactment of the

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<sup>31</sup> For a discussion of the difficulties with, and effects of, border control in the US, see Cornelius (2004).

<sup>32</sup> Data provided by the Department of Justice, Equality and Law Reform.

Employment Permits Act 2003 on 10 April 2003 there have been forty-seven prosecutions against employees and twenty-one prosecutions against employers. To date, there are seven recorded convictions in relation to employees and only three in relation to employers.<sup>33</sup>

## 2.4 The rights of migrant workers in Ireland

This section briefly discusses some of the major rights granted to migrant workers after they have been admitted and taken up employment in Ireland.<sup>34</sup> The discussion focuses on economic and social rights, and on possibilities for securing permanent residence in Ireland.

### 2.4.1 *Economic and social rights*

In general, non-EEA employees are officially entitled to the full range of statutory employment rights and protections in exactly the same manner as Irish and other EEA workers. These rights and protections include:

- the right to a minimum rate of pay of €7 per hour (under the National Minimum Wage Act 2000) or to the (potentially higher) minimum rates of pay specified in the Employment Regulation Orders set by the Joint Labour Committees in selected sectors<sup>35</sup>
- the right to receive written statements of gross wages received and deductions made (as laid down in the Payment of Wages Act 1991)

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<sup>33</sup> Data provided by the Department of Justice, Equality and Law Reform in March 2005.

<sup>34</sup> The information about migrant workers' rights has been taken from the websites of the DETE, DJELR and from the comprehensive overview given in a recent publication by the Immigrant Council (2003a).

<sup>35</sup> Each JLC is composed of representatives of workers and employers in the sector concerned. Currently, there are nineteen JLCs in existence, including the following sectors and occupations: Aerated Waters and Wholesale Bottling Sector; Agricultural Workers; Brush and Broom; Catering (Dublin and Dun Laoghaire); Catering (Other); Contract Cleaning (Dublin); Contract Cleaning (Other); Hairdressing (Cork); Hairdressing (Dublin, Dun Laoghaire and Bray); Handkerchief and Household Piece Goods; Hotels (Dublin and Dun Laoghaire); Hotels (Other excluding Cork); Law Clerks; Provender Milling; Retail Grocery and Allied Trades; Security Industry; Shirtmaking; Tailoring; Women's Clothing and Millinery. For the current minimum wages set in these sectors, see <http://www.labourcourt.ie>.

- the right to a maximum of forty-eight working hours per week and to minimum periods of rest (as laid down in the Organisation of Working Time Act 1997)
- the right to minimum holiday entitlements and pay arrangements in respect of holiday and public holidays (as laid down in the Organisation of Working Time Act 1997)
- the right to a premium for Sunday work (as laid down in the Organisation of Working Time Act 1997)
- protection against unfair dismissal (under the Unfair Dismissals Acts 1977 to 2001)
- the right to a minimum period of notice before dismissal (under the Minimum Notice Acts 1973 to 2001)
- general protection from discrimination based on age, gender, marital status, family status, race, religion, sexual orientation, disability or membership of the travelling community (under the Employment Equality Act 1998).<sup>36</sup>

The above rights are explained in an information leaflet produced by the DETE and translated into all the major languages of migrant workers employed in Ireland.<sup>37</sup> They are also laid out – together with the terms and conditions of the job offered – on the application form for work permits. This application form also explicitly specifies that the employer, or agent acting on behalf of the employer, must not charge the worker a fee for obtaining the work permit and/or for providing employment.<sup>38</sup> Importantly, the work permit application form requires signatures by both the employer and the prospective migrant employee, thus ensuring – in theory – that both parties agree on the terms of employment.

In addition to equality in economic rights, migrant workers from outside the EEA are also entitled to most of the social rights enjoyed by Irish citizens, including the benefits of Ireland's fairly extensive

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<sup>36</sup> There is one important exception. Section 37(5) of the Employment Equality Act 1998 exempts employment in private households, e.g. childminders and carers in people's homes. Note that some of those jobs were excluded from the work permit system since April 2003 (when the list of ineligible occupational categories was introduced).

<sup>37</sup> The information leaflet is available at [www.entemp.ie](http://www.entemp.ie).

<sup>38</sup> Under the Employment Agencies Act 1971 recruitment agents are not allowed to charge employees a fee.

equality legislation. One important exception relates to access to social welfare benefits.

Until recently, Ireland was the only country among the member states of the pre-enlarged EU where non-nationals could claim social assistance payments without satisfying a residency test. However, in order to secure and protect the social welfare system in the light of the anticipated inflow of workers from the accession countries, the government felt that this policy was no longer tenable. It consequently enacted the Social Welfare (Miscellaneous Provisions) Bill 2004 which introduced a 'habitual residency test' as a condition which needs to be satisfied by a person claiming a social assistance payment, including unemployment assistance,<sup>39</sup> and child benefits.

The new residency test requires any claimant for social assistance to be 'habitually resident' in Ireland or the rest of the Common Travel Area (UK, Channel Island and the Isle of Man) for a continuous period of at least two years. In addition to length and continuity of residence, whether or not a person is habitually resident will be decided based on employment prospects, reasons for coming to Ireland, future intentions and centre of interest (e.g. family, home connection). According to the Department of Social and Family Affairs, 'each case will be examined on the facts and the person's degree of permanence in the State, and no single factor will be conclusive'.<sup>40</sup>

#### *2.4.2 Possibilities for securing permanent residence*

All of Ireland's existing labour immigration programs for non-EEA nationals issue temporary permission to work and reside in the country: work permits are valid for one year and renewable; work visas/authorisations are valid for two years and renewable. Migrant workers who have been legally resident in Ireland for more than five years on the basis of a work permit or work

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<sup>39</sup> The full list of social assistance payments to which the new residency test applies includes: unemployment assistance, non-contributory old age and blind pension, non-contributory widow(er)'s and orphan's pensions, one parent family payments, carer's allowance, disability allowance and supplementary welfare allowance (other than once-off exceptional and urgent needs payments). Importantly, the residency condition does not apply to social-insurance based payments such as disability benefit, retirement pensions and where entitlement is gained by the payment of social insurance contributions.

<sup>40</sup> Press release by the Department of Social and Family Affairs, 2 March 2004, available at [www.welfare.ie/press/index.html](http://www.welfare.ie/press/index.html).

visa/authorisation may apply for permission to stay in Ireland for a five-year period. Non-EEA nationals who receive such a five-year residence permit are exempted from employment permit requirements and may thus freely change employers in Ireland.

With regard to permanent residence, the first point to note is that Ireland does not have a permanent immigration programme that grants migrant workers the right to permanent residence immediately upon admission to Ireland. There are, however, two possibilities for non-EEA nationals who are already lawfully employed in Ireland to obtain permission to stay and work permanently: naturalisation (after five years); and application for 'permission to remain without condition as to time' (after eight years).

*Naturalisation.* After five years of legal residence in Ireland (over a period of nine years), migrant workers may apply for Irish citizenship.<sup>41</sup> The number of naturalisations has, so far, been quite small. During 2001-2004, a total of 5,387 non-nationals acquired Irish citizenship. The most important former nationalities of the naturalised persons during that period were Pakistani (653), Bosnian (578), Indian (299), Somali (257), Iraqi (229) and Sudanese (200).<sup>42</sup> A breakdown by previous residency/employment status in Ireland is not available, but the above list suggests that the majority of naturalised persons during 2001-2004 would have been recognised refugees. Given that the number of work permits started to increase dramatically in 1999, one can expect an imminent significant rise in the number of applications for Irish citizenship from persons who have been employed on employment permits in Ireland for five years or longer.

It is also interesting to note in this context that, according to the DJELR, there is currently a backlog of approximately 9,000 naturalisation applications. Extra resources have been deployed to tackle the twenty-four month processing time. Immigration officials believe that the 184% increase in applications between 2001 and 2004 is likely to accelerate in the coming years.<sup>43</sup>

*Permission to remain without condition as to time.* Non-nationals who have been legally resident in Ireland for over eight years<sup>44</sup> but have not, for whatever reason, applied for naturalisation, may

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<sup>41</sup> As an important exception, legal residence as a student or asylum seeker does not count toward this minimum period of five years.

<sup>42</sup> Data provided by the DJELR.

<sup>43</sup> Personal communication with official at the DJELR in April 2005.

<sup>44</sup> Again, periods of residence in the state for the purpose of study or for the examination of an asylum claim do not count for this purpose.

apply for long-term residency in Ireland without condition as to time.<sup>45</sup> Persons granted this permanent residence permission are also exempted from employment permit requirements.

It is important to emphasise that – apart from the time-unlimited right to reside and the right to work without requiring an employment permit – leave to remain without condition as to time does not grant migrants any rights that go beyond those given to non-EEA nationals employed on temporary employment permits. For example, if coming from a visa-requiring country, migrants with leave to remain without condition as to time still need a visa each time they re-enter the state. They can also be refused permission to enter on all the normal grounds (such as insufficient funds). Furthermore, unless migrants can support their families, family reunification will not be allowed.

It may thus be concluded that the rights and security associated with permission to remain in Ireland without condition as to time fall well short of the rights enjoyed by Irish citizens, other EEA nationals in Ireland, and – more generally – by ‘immigrants’ with permanent resident status in some other immigration countries.<sup>46</sup> This is likely to be a major consideration in migrants’ decisions about the best way of acquiring secure and permanent residence status in Ireland.

## 2.5 Migrant workers in Ireland’s labour force

In 2002, census data indicate that there were about 90,000 non-Irish EU15 nationals and 60,000 non-EU15 nationals in Ireland’s labour force, representing 5 per cent and 3.3 per cent of the total labour force, respectively.<sup>47</sup> Of course these figures do not include non-EEA nationals who were illegally employed at the time. Furthermore, with EU enlargement on 1 May 2004, the numbers and shares will have shifted, as accession state nationals became EU nationals.

Migrant workers are employed across all occupations and sectors of the Irish economy (see Figure 2.7). A previous analysis of work permit data concluded that, in 2002, three out of four migrant workers employed on work permits (i.e. from outside the EEA) were engaged in relatively low-skilled jobs.<sup>48</sup>

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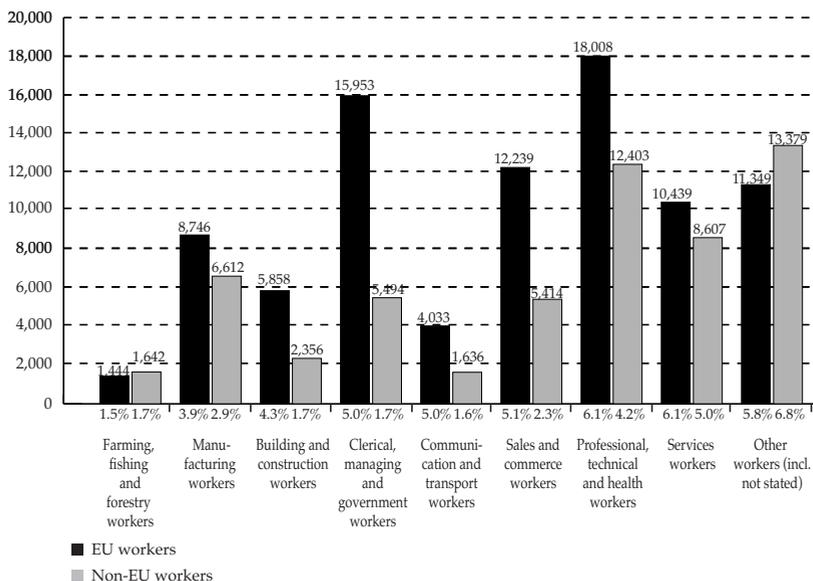
<sup>45</sup> See ‘Permission to remain for non-EEA nationals’, [www.justice.ie](http://www.justice.ie), accessed on 16 August 2004.

<sup>46</sup> See, for example, the rights associated with permanent immigrant status in Canada (see <http://www.cic.gc.ca/english/newcomer/guide/section-09.html>).

<sup>47</sup> See Table A7. Of course these figures do not cover non-EEA nationals who might be illegally employed, whose number is unknown.

<sup>48</sup> Ruhs (2003b).

Figure 2.7: Non-Irish persons aged 15 years and over in the labour force, classified by broad occupational group (absolute numbers and relative shares in total occupational labour force), 2002



Source: Central Statistics Office, *Census 2002* (also see Table A8)

The main message emerging from the above review of the various channels of immigration available to non-EEA nationals is this: the work permit system is the main instrument for regulating the immigration and employment of non-EEA nationals, but there are also numerous other ways in which non-EEA nationals can enter and take up employment in Ireland – legally or illegally.<sup>49</sup> Any discussion of Ireland's current labour immigration policies thus needs to focus on the work permit system but, at the same time, take a general approach that also considers the potential role played by other channels of immigration – including non-employment-based ones – in providing the Irish labour market with non-EEA workers. Furthermore, the immigration and employment of EEA nationals – which is outside the domain of Ireland's labour immigration policy-making – needs to be considered as an important factor in deciding how the employment of non-EEA nationals should be managed.

<sup>49</sup> The latter are obviously not covered in the statistics.

## Work permit policies in Ireland, 1999-2004

Ireland's economic boom in the mid and late 1990s created an unprecedented demand for labour. Initially, this demand could be met by an increase in the supply of domestic workers: unemployment levels fell from 15.9 per cent in 1993 to an historic low of 5.7 per cent in 1999.<sup>50</sup> During the same period, labour market participation rates increased from 61.4 per cent to a record high of 65.8 per cent.<sup>51</sup> By 1999, the scope for further increases in the domestic labour supply had become more limited, while the demand for labour kept increasing. According to a national survey of vacancies in the non-agricultural sector in 1999/2000, there were 77,600 vacancies in 1999, up from 64,700 in the previous year. This meant that 6.5 per cent of the total labour requirement of the Irish economy in 1999/2000 was not being met. Importantly, high vacancy rates were prevalent across most occupational and employment categories, including both skilled and low-skilled jobs.<sup>52</sup>

Employers thus began to look abroad to recruit the workers needed to alleviate the increasing labour shortages. Irish return migrants and workers from other EU countries – who continued to arrive in Ireland in significant numbers at the time (about 26,700 and 15,100, respectively, in 1999<sup>53</sup>) – were able to fill only a minority of the vacancies.<sup>54</sup> For the first time in Ireland's history, there was

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<sup>50</sup> CSO, Labour Force Survey 1993 and Quarterly National Household Survey 1999 (figures taken from ESRI Databank).

<sup>51</sup> Most of this increase was driven by a dramatic rise in the labour market participation rates of women, from 42.2 per cent in 1993 to 51 per cent in 1999 (CSO, Labour Force Survey 1993 and Quarterly National Household Survey 1999. Figures for the labour force participation rate for population aged fifteen to sixty-four taken from ESRI Databank).

<sup>52</sup> ESRI (2001).

<sup>53</sup> CSO (2003).

<sup>54</sup> The fact that immigration from other EU countries remained relatively low is a reflection of the traditionally low level of labour mobility of workers within the EU. In 2000, only 225,000 people (0.1 per cent of the total EU population) changed their official residence between two countries. Those numbers are a fraction of the mobility observed in the United States where about 2.5 per cent of the population change states every year (European Commission, 2002).

therefore a significant and rapidly increasing demand for non-Irish migrant workers from outside the EU. The number of local employers' applications for work permits for employing non-EU nationals in 2000 (17,833) was more than three times that in 1999 (5,750). Given the continuation of high economic growth, it was clear that the upward trend would continue in the foreseeable future. The work permit system – the major official mechanism for regulating the admission and employment of non-EEA nationals in Ireland – had thus suddenly become an important instrument in sustaining Ireland's economic growth.

This chapter discusses the evolution of Ireland's work permit system, and its impact on the employment of non-EEA workers, since the late 1990s. It is argued that Ireland's work permit policies have evolved in a succession of two distinct policy regimes: an employer-led system with very little government intervention until April 2003; and a more interventionist system characterised by the introduction of new policies aimed at more actively managing the number, nationalities and sectors of employment of migrant workers since April 2003 – the time when the decision to grant accession state nationals free access to the Irish labour market immediately upon EU enlargement on 1 May 2004 was formally taken.

### **3.1 Laissez-faire policies until April 2003**

Until April 2003, Ireland's work permit system was almost entirely employer-led, with little to no government intervention in the number, nationalities and sectors of employment and recruitment of migrant workers. The core elements of this system included: i) the procedure and institutional mechanism for obtaining work permits; and ii) the requirement for employers to check for the availability of local workers before making a work permit application ('labour market test'). Although these policies are still in place today, prior to April 2003 they were essentially the only policy mechanisms impacting on the number and selection of migrant workers admitted under the work permit system.

#### *3.1.1 Procedure for obtaining a work permit*

Work permits are issued to employers rather than migrant workers and are not transferable. This means that a migrant worker

employed on a work permit must not work for any employer other than the one specified on the permit.<sup>55</sup> The intended purpose of this ‘tying’ of the worker to the employer – which is a common feature of work permit policies around the world – is to align migrant workers admissions with the ‘labour market needs’ of the Irish economy by ensuring that migrant workers are given permission to work only after they have secured a job in Ireland.

Before applying for a work permit, a local employer needs to first demonstrate that ‘every effort has been made’ to recruit an EEA national. This ‘labour market test’ has been administered by FÁS (Training and Employment Authority) and checks for the availability of local workers before giving an employer permission to proceed with a work permit application. The purpose of this policy is to protect the employment prospects of EEA (particularly Irish) workers who essentially enjoy – by virtue of their citizenship, residence status or other international agreements such as those between the EEA countries – the right to preferential access to the Irish labour market. Again, the requirement to check for the availability of local workers before making an application for a work permit is a common requirement among most work permit programmes in other countries.

Work permit applications are received and administered by the Work Permits Unit of the Department of Enterprise, Trade and Employment. Work permits are valid for a maximum period of one year and may be renewed – by the employer – on an annual basis. The application for a new permit or renewal requires the employer to complete a standardised application form that asks for information about particulars of the employer and proposed employee, details of the job on offer including wages and working hours, and about the employer’s efforts to recruit an Irish or EEA national.<sup>56</sup>

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<sup>55</sup> The DETE’s Work Permits Information Leaflet explicitly states: ‘All employees are advised that a work permit will entitle them to work for the specific employer named, and no other, for the duration of the permit. When the permit has expired the employee’s permission to work in Ireland has expired’. The DETE has, nevertheless, taken a flexible approach in processing applications for new work permits that involve a change of employers by a migrant worker who is already employed on a work permit in Ireland. According to the DETE, an annual average of about 2,000-3,000 such ‘transfers’ were approved in recent years.

<sup>56</sup> Altogether, there are thirty-five pieces of information on a completed form, eighteen of which are entered into the DETE’s (computer-based) work permits database.

The DETE charges employers administrative fees for applications for both new permits and renewals of existing permits. These fees vary with the duration of the requested permit and are annually revised. Although the fees have tripled since 1999<sup>57</sup>, the current level of €500 (in place since January 2003) for a 6-12 months permit or renewal is still relatively low compared to the employer's overall cost of recruiting and employing a migrant worker. As a result, the work permit fees are unlikely to have had a significant impact on local employers' decisions about whether to make a work permit application for employing a non-EEA national or not.

After the work permit has been issued – a process that takes between four and eight weeks – workers from visa-requiring countries need to apply for a visa, which is routinely granted if evidence for the issuance of a work permit can be provided.<sup>58</sup> Within three months after arriving in Ireland, migrant workers need to register and apply for a residence permit at a local Garda registration office (which is part of the Department of Justice, Equality and Law Reform).<sup>59</sup> After producing a passport and a copy of the work permit, workers are issued with a certificate of registration which contains a Residency Stamp No.1, entitling the holder of the certificate to legal residence in Ireland for a period that corresponds to the duration of the work permit (with a maximum of one year). Every renewal of a work permit needs to be accompanied by a new application for another residency stamp.<sup>60</sup>

### 3.1.2 *Labour market test*

In the late 1990s, when the number of migrant workers employed on work permits was increasing but still relatively low, the requirement to check for the availability of local workers before making a work permit application was 'voluntary' rather than mandatory. This changed in January 2002 since when employers have been required to advertise a job vacancy with FÁS prior to making an application for a *new* work permit for a non-EU national.<sup>61</sup> The vacancy must be registered with FÁS for four weeks

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<sup>57</sup> The fee for a 6-12 months permit increased from €158.72 in January 2000 to €400 in January 2002, and to €500 in January 2003.

<sup>58</sup> For a list of visa-requiring countries, see [www.justice.ie](http://www.justice.ie).

<sup>59</sup> In Dublin, this is the Garda National Immigration Bureau.

<sup>60</sup> For more detailed information about the process of obtaining residency stamps, see Immigrant Council (2003a).

<sup>61</sup> Importantly, this requirement does not apply to applications for renewals of existing permits.

and will be broadcast to all the major employment databases within the EEA including EURES, the EU's 'job mobility portal'.<sup>62</sup> If, after a period of four weeks, no suitable EEA worker can be found, FÁS will issue a letter that certifies the unavailability of local workers, thus enabling the employer to proceed with an application for a work permit at the DETE.

Having been formalised and become a mandatory prerequisite for all new work permit applications, the labour market test was certainly strengthened. Nevertheless, it was, and still is, widely perceived – by employers as well as FÁS and the DETE themselves – to be fairly ineffective in identifying local workers that can fill the vacancies that employers advertise at FÁS with the intention of recruiting a non-EEA worker.

In late 2002, FÁS carried out an internal comparative analysis of the available data on the potential labour supply (including the number of people on the Live Register and other people registered with FÁS for the purpose of obtaining employment), vacancies notified with FÁS, and work permits issued across the various occupations. The striking finding of this analysis was that, in late 2002, the majority of work permits were issued for employment in unskilled occupations for which there appeared to be a sizable supply of local labour.<sup>63</sup>

### *3.1.3 Impact on numbers, nationalities and sectors of employment of migrant workers*

The employer-led system described above effectively meant that, as long as they were prepared to go through the administrative procedure laid out by the work permit system – which included the largely ineffective labour market test – local employers were essentially in a position to legally recruit as many non-EEA workers as they wished, from whatever countries they wanted, and employ them in any job regardless of the skill level required. It is thus not surprising that, in an environment of rapid economic growth, the number of work permits issued to non-EEA nationals increased dramatically from 5,750 in 1999 to 47,707 in 2003, which is equivalent to an increase of more than 700 per cent. An important element of this increase has been a rapidly increasing number of

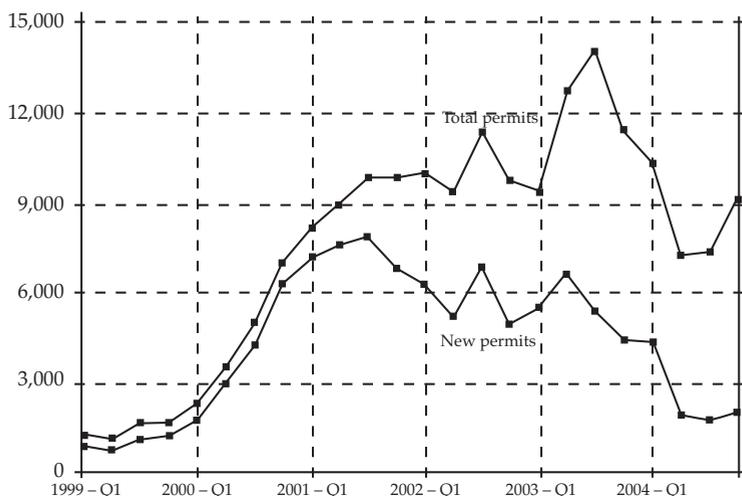
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<sup>62</sup> See <http://europa.eu.int/eures/>.

<sup>63</sup> Personal communication with official at FÁS.

renewals, whose share in total permits rose from 19 per cent in 2001 to 53 per cent in 2003.<sup>64</sup> This increase in renewals more than offset the trend in the number of new permits issued, which declined in late 2001 and remained relatively stable until mid-2003 (see Figure 3.1).

Figure 3.1: Quarterly numbers of work permits issued, 1999–Q1 to 2004–Q4



Source: Department of Enterprise, Trade and Employment

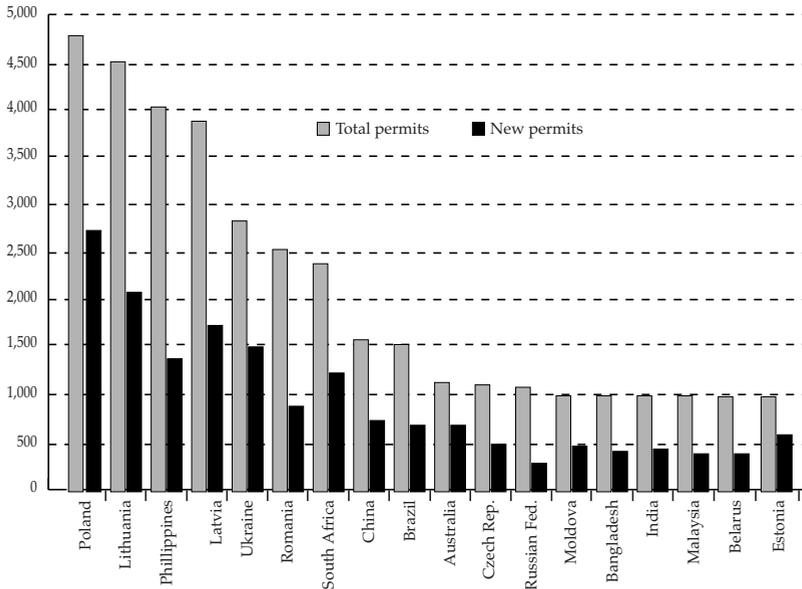
Notes: Q1: Jan-March; Q2: April-June; Q3: July-Sep; Q4: Oct-Dec.

As a further reflection of the employer-led policies prevailing until April 2003, the migrant workforce employed under the work permit system was highly diverse: during January 1999–December 2003, work permits were issued to nationals from more than 150 countries. In 2003, eighteen countries had more than 1,000 migrant workers employed on work permits in Ireland, accounting for almost 80 per cent of all work permits issued that year (see Figure 3.2). The five countries with the greatest number of nationals employed on work permits in Ireland were: Poland (4,810 permits,

<sup>64</sup> During the same period, the overall renewal rate – that is, the share of renewals in period  $t$  in the total number of permits issued in period  $t-1$  – rose from 39 per cent to 62 per cent in 2003 (see Table A6).

constituting 10.1 per cent of the total number of permits issued that year); Lithuania (4,556 permits or 9.5 per cent of the total); the Philippines (4,062 permits or 8.5 per cent of the total); Latvia (3,902 permits or 8.1 per cent of the total) and the Ukraine (2,879 or 6 per cent of the total). Workers from the ten accession countries accounted for 34 per cent of all work permits, and 37 per cent of all new permits issued in 2003. These shares had been relatively stable since 2000.

*Figure 3.2: Countries with more than 1,000 migrant workers employed on work permits in Ireland, 2003*



*Source:* Department of Enterprise, Trade and Employment

In the absence of any significant restrictions on the types of jobs eligible for work permit purposes, the employer-led system also led to significant diversity in the economic activities and occupations in which migrant workers were employed. In 2002, about 16 per cent of all migrant workers employed on work permits were working in agriculture, 8 per cent in industry, and the remaining 76 per cent in

the service sector, including 26 per cent in catering and 7 per cent in the medical and nursing sector.<sup>65</sup>

Furthermore, 74 per cent of all migrant workers employed on work permits in 2002 were engaged in what may be considered as relatively 'low-skill jobs' (see Table 3.1). In agriculture, almost all the work permits issued were for the employment of migrant workers in low-skill occupations (13 per cent of all work permits issued). In the service sector, a little less than a third of permits were for workers employed in personal and protective services (particularly catering which accounted for 14 per cent of all work permits issued) and just over another third were employed in other low-skill occupations (27 per cent of all work permits issued).

It is important to realise that some of the above trends in the size, composition and employment of migrant workers admitted under Ireland's work permit system have been critically facilitated by – and contributed to – the rapidly expanding activities of private recruitment agencies. The number of licensed employment agencies operating in Ireland increased dramatically from 329 in 1998 to 541 in 2003.<sup>66</sup> In 2001, a small-scale survey of businesses employing migrant workers, carried out by The Chambers of Commerce of Ireland (2001) suggested that 34 per cent of employed non-nationals were recruited through private recruitment agencies, followed by direct advertisement in newspapers or magazines to attract foreign staff (27 per cent).

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<sup>65</sup> These shares remained almost identical in 2003 when 14 per cent of all migrant workers employed on work permits were working in agriculture, 7 per cent in industry, and the remaining 79 per cent in the service sector, including 24 per cent in catering and 6 per cent in the medical and nursing sector. See the website of the DETE at [www.entemp.ie](http://www.entemp.ie).

<sup>66</sup> The DETE regulates the operation of private recruitment agencies. Under the Employment Agency Act 1971 – which is currently under review – an employment agency must hold a licence if it is to carry out its business. A person guilty of an offence under the Act is liable on summary conviction to a fine not exceeding €2,000 and in the case of a continuing offence to a further fine not exceeding €1,000 a day. According to a recent DETE discussion paper, the number of complaints received in relation to the employment agency sector is 'generally low'. In the period 2001 to 2003, the labour inspectorate carried out inspections of eighty-seven employment agencies. In the vast majority of these cases, employment agencies were found to be in compliance with the provisions of the 1971 Act. Since 2001, only one prosecution has been successfully executed against an employment agency (see DETE 2004b).

*Table 3.1: Migrant workers employed on work permits by economic sector and occupation, Feb-Dec 2002*

	Agriculture Industry		Services	Sub-sectors in services			Other Services	Total
				Catering	Domestic	Medical and Nursing		
<i>% shares in total work permits issued</i>								
Managers and administrators	*	*	2.08	*	*	*	1.39	2.25
Professional occupations	*	*	5.35	*	*	2.22	3.09	5.66
Associate professional and technical occupations	*	*	5.42	*	*	1.00	4.31	5.78
Clerical and secretarial occupations	*	*	1.22	*	*	*	0.84	1.31
Craft and related occupations	1.69	2.23	7.45	0.53	*	*	6.89	11.37
Personal and protective service occupations	*	*	22.51	14.23	1.86	3.00	3.42	22.78
Sales occupations	*	*	2.44	*		*	2.23	2.55
Plant and machinery operatives	*	*	2.90	*	*		2.81	4.18
Other occupations	13.37	3.66	27.10	9.61	*	0.50	16.88	44.13
<b>Total</b>	<b>15.71</b>	<b>7.84</b>	<b>76.45</b>	<b>25.75</b>	<b>2.00</b>	<b>6.87</b>	<b>41.83</b>	<b>100.00</b>

*Source:* Ruhs (2003b) based on work permits data provided by the DETE

*Notes:* \*less than 0.5 per cent; Information about the occupations of work permit holders has been systematically entered into the database since February 2002. Percentages may not add up due to rounding.

### **3.2 The emergence of a more interventionist approach since April 2003**

The publication of the Employment Permits Act in April 2003 – which facilitated the granting of workers from the ten countries acceding to the EU free access to the Irish labour markets immediately upon EU enlargement on 1 May 2004 – marked the beginning of a more interventionist work permit system in Ireland. The government felt that its liberal policy towards workers from the EU accession countries required a more managed approach to regulating the number and selection of migrant workers coming to Ireland from outside the enlarged EU. The main rationale behind this new approach was the expectation that, after EU enlargement, workers from the EU accession countries would be able to fill all or most of the vacancies in the Irish labour market. In August 2003, the Tánaiste announced that she was ‘confident that, in light of EU Accession, Irish employers will be able to find the great majority of their overseas personnel needs met from within the enlarged EU, thus obviating the need for work permits’.<sup>67</sup>

A second, more implicit reason for the perceived need to operate a more restrictive work permits system after EU enlargement was the great uncertainty surrounding the number of accession state nationals who would decide to migrate and take up employment in Ireland after 1 May 2004.

The most important new policies affecting the number and selection of migrant workers admitted and employed under the work permit system since April 2003 include: i) the designation of selected occupational categories as ineligible for the purpose of new work permit applications; ii) the encouragement of local employers to give preference in their migrant worker recruitment decisions to workers from the EU accession countries; and, following EU enlargement, iii) the announcement by the DETE that it will no longer consider applications for new work permits for employing non-EEA nationals in low-skill occupations.

#### *3.2.1 Ineligible occupational categories*

In early 2003, there were indications that unemployment levels might soon increase again. Given the rapid increase in work permits issued in 2002, the continued failure of the labour market test gave

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<sup>67</sup> Tánaiste press release, 1 August 2003, available at [www.entemp.ie](http://www.entemp.ie).

rise to concern about the effective protection of the employment prospects of local workers. The Tánaiste thus announced plans to reduce the number of work permits by not issuing work permits anymore 'in cases where there is sufficient supply of labour with the requisite skills'.<sup>68</sup>

These plans were put into force in April 2003 when the DETE and FÁS published a list of occupational sectors that are ineligible for the purpose of *new* work permit applications.<sup>69</sup> According to FÁS, this list of occupations – most of which involve low-skill work – was arrived at following consultations with regional offices about the occupations for which there was a readily available supply of local workers.<sup>70</sup> In addition, FÁS and DETE claim to have carried out 'an intensive analysis of the skills profile of jobseekers registered with FÁS. This analysis included a comparison of the profile of job seekers with a profile of vacancies being registered by employers with FÁS in circumstances where the employer had indicated an intention to apply for a work permit if FÁS could not refer successful candidates'.<sup>71</sup>

Recognising the importance of 'getting the occupational categories right', FÁS recently asked the Economic and Social Research Institute (ESRI) to include issues pertaining to the demand for work permits and the availability of local labour supply in its annual survey of vacancies in Ireland. It is hoped that this will provide a better evidence base for drawing up, and regularly revising, the list of jobs ineligible for work permits.<sup>72</sup>

At the same time as declaring certain occupational categories as ineligible for the purpose of new work permit applications, the DETE and FÁS also introduced an 'accelerated clearance facility' – that is, where specific skills are determined by FÁS and the DETE to be in short supply, the requirement to advertise with FÁS for a minimum of four weeks before an application for a work permit can be made will be waived. FÁS has not published a list of occupational categories that qualify for this exemption from the labour market test.

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<sup>68</sup> Tánaiste's press release, 30 June 2004, available at [www.entemp.ie](http://www.entemp.ie).

<sup>69</sup> The initial list and subsequent revisions are given in Table A9 of the Appendix. The one significant revision since April 2003 has been the removal of international HGV and articulated drivers, aircraft mechanics/engineers, fish processors/filleters and plasterers from the list in August 2003.

<sup>70</sup> Personal communication with official at FÁS, 13 July 2004.

<sup>71</sup> Tánaiste's press release, 7 April 2003, available at [www.entemp.ie](http://www.entemp.ie).

<sup>72</sup> Personal communication with official at FÁS, 13 July 2004.

Importantly, the original labour market test in place since January 2000 still applies in all occupational categories that remain eligible for work permits and that do not fall under the accelerated clearing system. Since November 2003 there has been a three months expiry on any FÁS clearance letter.

### *3.2.2 Preference given to accession state nationals*

Soon after the government's decision to grant workers from the ten accession countries free access to the Irish labour market immediately upon EU enlargement, the DETE took measures aimed at encouraging local employers to give preference in their migrant worker recruitment decisions to workers from the accession countries.

In late August 2003, the DETE sent a formal letter to major business organisations in Ireland reminding them of the government's expectation that most of the post-enlargement demand for non-Irish workers would be met by workers from within the enlarged EU, and encouraging employers to already begin recruiting accession state nationals rather than workers from outside the enlarged EU.

In late October 2003, the DETE took additional action by beginning to return applications for new permits for workers from outside the enlarged EU whenever the DETE and FÁS thought that accession state nationals should be available to fill the advertised vacancies. At the same time, employers were also advised that an application to fill the post in question with an accession country national would receive 'favourable and speedy consideration'.

This was the first time that the DETE systematically rejected work permit applications on grounds other than formal errors. In the period from November 2003 to April 2004, 8 per cent of applications for permits for workers from outside the enlarged EU were refused. The corresponding refusal rate for applications for permits for accession state nationals was 1.8 per cent.<sup>73</sup> The difference between refusal rates of the two groups was greatest in November 2003 (1.9 per cent for accession state nationals versus 17.2 per cent for other non-EEA workers).

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<sup>73</sup>The overall refusal rate from November 2003 to April 2004 was 5.8 per cent.

### 3.2.3 *Exclusion of low-skill occupations from the work permit system*

In the run-up to EU enlargement, DETE officials repeatedly expressed the view that the post-enlargement work permits system would mainly serve the purpose of admitting and employing non-EEA workers who could do jobs for which workers from within the enlarged EU lacked the skills. For example the DETE *Annual Report 2003* states '... it is the Department's belief that the great bulk of our labour needs from overseas can be met from within the enlarged EU. In future, as a general rule, only higher skilled, higher paid posts will need to be filled by way of recruitment from outside the enlarged EU and economic migration policy will be implemented accordingly'.<sup>74</sup>

The DETE has recently started to implement these plans. In August 2004, the DETE announced that it '... will only consider new work permit applications from employers, where the employer is seeking to employ highly qualified or highly specific personnel and where there is also a demonstrable and verified shortage of such staff in the labour market'.<sup>75</sup> This policy announcement is interesting because it appears to be based on a more active role of the DETE in determining labour shortages:

While the FÁS advertising procedure is the principal means by which we determine and verify labour shortages in the specific job categories applied for through the work permits system, the Department has determined that for the foreseeable future there will be no requirement to issue new permits for anything but the most highly specialised vacancies. Generally, all other applications will be refused or returned.<sup>76</sup>

In practice, DETE officials decide on the eligibility of a work permit application under this new policy on a case-by-case basis, taking into account the qualifications of the worker and the pay offered by the employer making the work permit application.<sup>77</sup>

Of course, this latest policy is an administrative measure that could be revoked as easily as it was introduced. Whether or not the shift towards a skills-based work permit system is permanent or only temporary will presumably primarily depend on whether EEA nationals (and especially workers from the new EU member

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<sup>74</sup> DETE (2004a: 44).

<sup>75</sup> DETE (2004c).

<sup>76</sup> DETE (2004c).

<sup>77</sup> Personal communication with a DETE official, 18 February 2005.

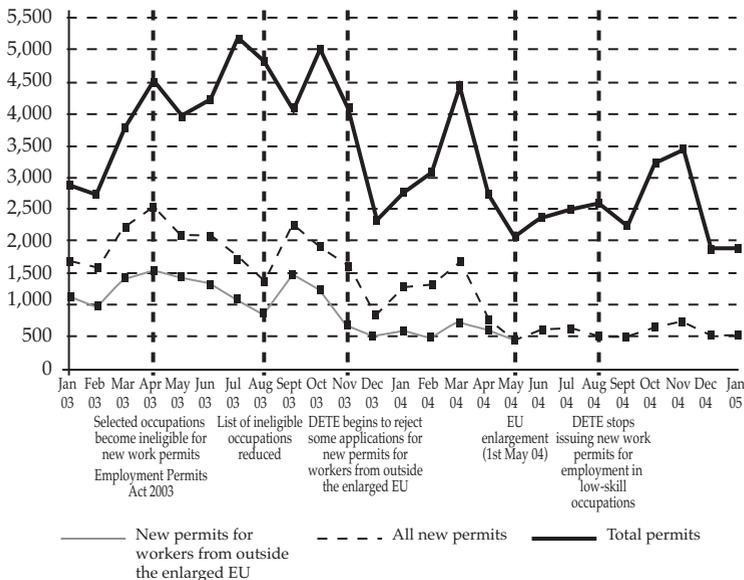
countries) will, as the government expects, be able – and willing – to meet all the labour shortages at the low-skill end of the labour market.

### 3.2.4 Impact of the new policies and EU enlargement

Given that work permit policies are only one determinant of the number and composition of migrant worker admissions, it is not possible to isolate and accurately assess the magnitude of the impact of each individual policy described above. There is little doubt, however, that – together with EU enlargement – the new policies played an important role in changing the number and selection of migrant workers admitted and employed under Ireland's work permit system since April 2003.

Figure 3.3 depicts the monthly number of permits issued since January 2003, together with a timeline of the major policies likely to have impacted on the size and composition of the migrant workforce employed on work permits since then.

Figure 3.3: Monthly number of work permits issued and major policies affecting work permits, January 2003-January 2005



Source: Department of Enterprise, Trade and Employment and text

The number of new work permits issued during the period from May to November 2003 was 7 per cent lower than that in May to November 2002. This decline was certainly caused – at least in part – by the introduction, in April 2003, of the list of occupational categories that are ineligible for the purpose of applications for new permits. When the list of ineligible occupational categories was reduced in August 2004, the number of new work permits issued increased again, although this increase may have been accentuated by seasonal demand for certain types of labour during the months around September (e.g. agricultural workers during harvesting).

Between November 2003 and April 2004, the number of new permits issued was 29 per cent lower than during the same period a year earlier. This decline may have been due to local employers' anticipation of accession state nationals' unrestricted access to the Irish labour market after 1 May 2004. This may have persuaded some employers to postpone their recruitment of accession state nationals until after 1 May. It is also possible that some employers, who had their applications for new permits for workers from outside the enlarged EU returned by the DETE, may have found it difficult to locate and make applications for new permits for accession state nationals instead.

The DETE's policy of returning new work permit applications for workers from outside the enlarged EU may also be considered to have had some success in raising the share of new work permits issued to accession state nationals. This share increased from 36 per cent in January to October 2003 to 52 per cent in November 2003 to April 2004 (also see Figure 3.3, which shows an increase in the number of all new permits issued during December 2003 to March 2004, despite a stagnation in the number of new permits issued to workers from outside the enlarged EU).

EU enlargement naturally led to a reduction in the number of work permits issued, and to a change in the composition of the migrant workforce employed on work permits. The average monthly number of work permits issued from May to December 2004 was 34 per cent lower than the corresponding figure for May 2003 to April 2004. The magnitude of this reduction is about the same as the share of work permits issued for employing accession state nationals during May 2003 to April 2004 (35 per cent). In terms of new permits issued, the average monthly figure for the first three months after EU enlargement (613) is the lowest it has been since

1999, when an average of 336 permits were issued per month.

Interestingly, the average monthly number of *new* permits issued during May-December 2004 was about the same as the average monthly number of new permits issued to workers from outside the enlarged EU during November 2003 to April 2004.<sup>78</sup> This suggests that the opening up of the labour market to accession state nationals on 1 May 2004 may have reduced<sup>79</sup> but did certainly not eliminate employer demand for work permits for workers from outside the enlarged EU.

As of December 2004, the six countries with most migrants employed on work permits in Ireland included (with renewal rates<sup>80</sup> in parentheses): the Philippines (84 per cent); Ukraine (59 per cent); Romania (76 per cent), South Africa (56 per cent); Brazil (85 per cent); China (69 per cent) and India (68 per cent).<sup>81</sup> The greatest numbers of new permits issued in 2004 were for the employment of migrants from Turkey<sup>82</sup> (a country with relatively few migrants employed on work permits in Ireland in the past), the Philippines, South Africa and India (see Figure 3.4).

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<sup>78</sup> The average monthly figure for May to December 2004 was in fact almost exactly the same as the corresponding figure for November 2003 to April 2004. For the purposes of this study, November 2003 was chosen as the start of the comparison period because it is the month when the DETE began to implement its last work permit policy change before EU enlargement (see Figure 3.3).

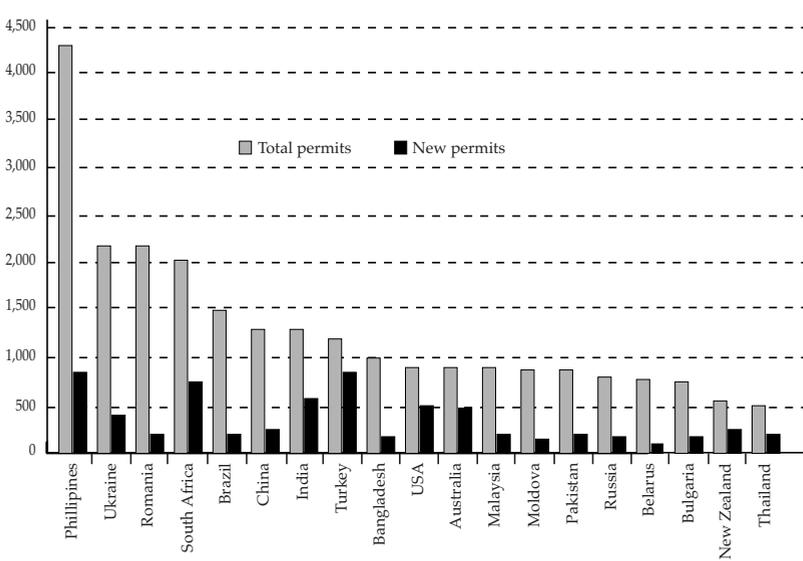
<sup>79</sup> It is not clear whether EU enlargement *significantly* reduced the demand for work permits for workers from outside the enlarged EU. For example, although the average number of new work permits issued between May to December 2004 is 47 per cent lower than the average monthly figure for 2003, the decrease could be primarily due to the work permit policies implemented by the DETE in the second half of 2003 (see Figure 3.3) rather than by the prospect and employers' anticipation of EU enlargement.

<sup>80</sup> The renewal rate is defined as the number of renewals issued in period  $t$  divided by the number of total permits issued in period  $t-1$ .

<sup>81</sup> The overall renewal rate for work permits issued to workers from outside the enlarged EU in 2004 was 66 per cent.

<sup>82</sup> The majority of Turkish workers employed on new work permits in 2004 were temporarily working for the same construction company in Ireland. Personal communication with official at DETE, 18 February 2005.

Figure 3.4: Countries outside the enlarged EU with more than 500 migrant workers employed on work permits in Ireland, 2004



Source: Department of Enterprise, Trade and Employment

Finally, the DETE's latest policy – in place since August 2004 – of rejecting new work permit applications for employing migrants in low-skill jobs does not appear to have had any noticeable impact on the number of new permits issued. The average monthly number of new work permits issued from September 2004 to January 2005 was 634. The corresponding figure for the period from November 2003 to July 2004 was 603. The policy may, of course, have affected the occupational distribution of migrants employed on work permits but this would need to be verified by an analysis of the relevant occupations data before and after August 2004. This is not done in this paper but constitutes an important area of research for 2005.

## The consequences of international labour migration

International labour migration generates a complex set of economic, social, political, cultural, environmental and other consequences for individuals, communities and countries as a whole. At the risk of over-simplification, Table 4.1 categorises the major types of impact (each indicated by an 'x') on non-migrants in the migrant-receiving country, non-migrants in the migrant-sending country, and on migrants themselves. Of course, it needs to be emphasised that it is not possible to adequately categorise all the potential impacts of migration in a simple table. Nevertheless, Table 4.1 is useful in giving a rough overview of some of the more important areas of impact.

*Table 4.1: Types of impacts of international labour migration*

	RC	SC	M
Economic Efficiency <sup>83</sup>	x	x	x
Distribution	x	x	
National Identity and Social Cohesion	x	x	
RC Citizen's Rights	x		
SC Citizen's Rights		x	
Migrant's Rights			x

RC=Receiving Country; SC=Sending Country; M = Migrants

This chapter reviews some of the major theoretical and empirical studies carried out internationally on each of the ten impacts in

<sup>83</sup> In Table 4.1, the term 'economic efficiency of migrants' refers to individual migrants' wages and employment prospects. See the discussion in the text.

Table 4.1.<sup>84</sup> It concludes with a discussion of what is known about the consequences of international labour migration to Ireland.

#### 4.1 Impacts on the receiving country

Despite the recent mushrooming of studies of labour immigration, the current understanding of the actual effects of immigration on economic efficiency, distribution, national identity and citizens' bundles of rights remains rather limited.

##### 4.1.1 Welfare analysis: economic efficiency and distribution

In the theoretical analysis, the impact of immigration on national income and its distribution in the receiving country critically depends on the underlying assumptions about how the receiving country's economy reacts to the immigration-induced increase in labour supply. In the most simple model with a fixed demand curve for labour (known as 'partial equilibrium analysis'), immigration has two separate effects: it increases national income (the *efficiency effect*) and, at the same time, redistributes national income from non-migrant workers to capital owners (the *redistribution effect*).<sup>85</sup> Immigration thus benefits employers at the expense of non-migrant workers who, as a result of immigration, face increased competition and lower wages. An important feature of this model is that the overall increase in national income *depends on* and varies with the fall in wages. The less wages fall in response to immigration, the lower will be the aggregate economic benefits from it.

Using this model, Borjas (1995) carried out back-of-the-envelope calculations of the welfare effects of immigration on the US economy as a whole (assuming a one-region aggregate labour market). His study found that in the mid-1990s the prevailing level of immigration increased gross domestic product (GDP) by 0.1 per cent, raised capital income by 2 per cent of GDP, and lowered labour income by 1.9 per cent of GDP. This suggests that the redistribution effects of immigration significantly outweigh its efficiency effects.<sup>86</sup>

<sup>84</sup> Although there will be at least some discussion about each of the impacts identified in Table 4.1, the emphasis will be on studies dealing with the economic consequences of migration.

<sup>85</sup> See for example Borjas (1995).

<sup>86</sup> In a more recent paper, however, Borjas (2001) argues that the efficiency gains from immigration are magnified when estimated in the context of an economy with regional differences in marginal product, rather than in the context of a one-region aggregate labour market.

In contrast, if the theoretical analysis allows for the receiving country's economy to adjust to immigration in a number of ways<sup>87</sup> ('general equilibrium analysis') rather than through a decline in wages only, the long-run effects of immigration on economic efficiency and distribution may significantly differ from those predicted by the simple model described above. For example, if immigration results in an increase in investment, the demand for labour may increase, thereby increasing wages from their post-immigration level. Depending on the magnitude of the immigration-induced shift in the labour demand curve, this increase in wages may offset or even outweigh the initial decline in wages caused by the initial increase in labour supply. Trefler (1997) argues that standard general equilibrium theories suggest that the impact of immigration on wages and national income is only minor, and certainly much smaller than those suggested by a partial equilibrium model of the labour market. Ben-Gad (2004) uses a dynamic model with endogenous capital accumulation (i.e. a model in which investment is allowed to adjust to immigration) to make a similar point.

#### *4.1.2 Empirical labour market studies*

The general picture that emerges from the majority of empirical labour market studies is that the impact of immigration on the labour market outcomes for non-migrants is only minor.<sup>88</sup> Given that this result is at odds with a movement along a fixed and downward sloping demand curve (as assumed in partial equilibrium models), it is not surprising that most studies that come to this conclusion use general equilibrium considerations to explain their findings. For example a recent study by Dustmann et al (2003) concludes that immigration has no significant (long-run) effects on regional unemployment levels or wage levels in the UK. The authors explain their results by arguing that the long-run effects of immigration are reflected in a change in the output mix – i.e. an increase in the

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<sup>87</sup> There are several ways in which the receiving country's economy may adjust to immigration, including, for example, through a change in capital accumulation (investment), a change in production technology, a change in the output mix (i.e. in the mix of products produced or services provided) etc.

<sup>88</sup> In addition to the studies mentioned in the text, see Bean et al (1988); Hunt (1992); Pope and Withers (1993) and Roy (1997). For useful literature reviews see for example Friedberg and Hunt (1999) and Card (2004).

production (or provision) of labour-intensive commodities (or services), which leads to an increase in the demand for labour – rather than in a change in wages or unemployment levels.

Card (1990) analysed the effect of the Mariel Boatlift of 1980 on the Miami labour market. Although the immigrants increased the Miami labour force by seven per cent overall (and by more than that in industries where immigrants were concentrated), Card concludes that the Mariel influx had virtually no effect on the wages or unemployment rates of less-skilled workers, even among Cubans who had immigrated earlier. Card suggests two explanations for the ability of Miami's labour market to absorb immigrants. First, immigrant-absorbing industries grew extremely rapidly during the period of the boatlift. Second, immigration may have been offset by a change in the net migration rate of native migrants and older cohorts of immigrants.<sup>89</sup>

In another study, Beenstock and Fisher (1997) studied the impact of the arrival of about 700,000 Jewish (mostly skilled workers) immigrants to Israel in the late 1980s and early 1990s. They found that, as an immediate short-term response to immigration (1989-1991), real wages fell, unemployment, returns to capital, and investment increased and GDP growth accelerated. Later on, between 1992 and 1995, investment remained high, wages and employment increased, returns to capital fell and GDP growth remained high. Gandal, Hanson and Slaughter (2002) suggest that these developments may be primarily explained by Israel's adoption of changes in global production technology (which were consistent with skills-biased technical change and thus raised the demand for skilled labour).<sup>90</sup> As an alternative explanation of the Israeli experience, Brezis and Krugman use a general equilibrium model with increasing returns to argue that '... an exogenous increase in the labour force leads first to a drop in real wages, but

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<sup>89</sup> It is important to note that any immigration-induced out-migration of citizens would potentially transmit the effects of immigration away from the immigrant destination to the final destinations of citizen out-migrants. Existing empirical studies of the nexus between immigration and internal migration have been relatively recent, confined to the United States and show conflicting results. See for example Filer (1992); Walker et al (1992); Wright et al (1997); Borjas, Freeman, and Katz (1997) and Card (2001).

<sup>90</sup> Gandal et al (2002) suggest that a change in output mix played a very minor to no role in offsetting the immigration-induced decline of real wages in the short term.

then to a surge in investment which gradually raises wages again ... the eventual impact on wages is actually positive: because the enlargement of the economy allows production of a wider range of non-traded inputs, the real wage in the end rises by more than the initial drop' (1993: 10).<sup>91</sup>

Although few in number, some studies have identified significant negative wage and/or employment impacts arising from immigration.<sup>92</sup> For example Borjas (2003; 2004) found that during 1980-2000 in the United States, immigration reduced the wages of native-born men by an estimated \$1,700 or roughly 4 per cent. The estimated impact on the wages of natives without a high school education was larger, reducing these wages by 7.4 per cent. Furthermore, Borjas argued, 'the reduction in earnings occurs regardless of whether the immigrants are legal or illegal, permanent or temporary. It is the presence of additional workers that reduces wages, not their legal status' (2004: 1).

In an earlier study, Borjas, Freeman, and Katz concluded that immigration adversely affects the relative earnings of American high school dropouts. They further showed that trade and immigration considerably altered the country's labour skill endowments in the 1980s. In 1985 to 1986, at the height of the trade deficit and after a decade of substantial legal and illegal immigration, the nation's effective supply of male high school dropouts was 27-32 per cent higher and the supply of female high school dropouts 28-34 per cent higher than they would have otherwise been (1992: 232-233).

A recent analysis of the labour market impacts of immigration in the eighteen EEA countries during 1983 to 1999 finds that an increase in the share of foreign workers of 10 per cent would reduce native employment rates by a modest 0.2-0.7 per cent (Angrist and Kugler, 2003). The authors further argue that restrictive labour market institutions that result in rigid wages will likely aggravate the negative impact of immigration on the wages and employment of local workers.

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<sup>91</sup> Apart from the assumption of increasing returns, the critical ingredient of this theoretical model is the rise in investment in response to immigration. Importantly, Brezis and Krugman point out that whether and to what extent investment responds to immigration may be dependent on investors' expectations. 'Investor confidence, and possibly an active government program to promote investment, may be crucial if a potential destination for large immigration is to fulfill that potential' (1993:16).

<sup>92</sup> See the work by Borjas (1995; 2003; 2004).

Some economic historians also argue that past immigration had an adverse impact on wage levels in receiving countries. For example O'Rourke et al analyse the contribution of international migration to real wage-convergence in the late-nineteenth-century Atlantic economy. Based on counterfactual considerations, they conclude that without immigration, urban real wages in the United States would have been 34 per cent higher in the period 1870-1910 (1994: 209). Noting that most studies of contemporary migration flows tend to assume a significant degree of complementarity between immigrants and native workers, the authors argue that 'substitutability is far more likely to have characterised labour markets in the late nineteenth century than complementarity: new emigrants competed directly with the native-born and old emigrants at the bottom end of the labour market' (1994: 210).

If it is possible to draw a general conclusion from the existing literature on the impacts of immigration on the labour market, it is probably this: immigration may cause wages to fall (or unemployment to rise) in the short term, but these developments may be reversed in the long term after labour demand has adjusted to the immigration-induced increase in labour supply. Of course, whether or not this general statement holds for a particular country is a question that can only be answered by empirical analysis of migration to that country.

#### *4.1.3 Fiscal effects*

The findings of studies of the fiscal impacts of immigration are equally mixed, with most existing literature reviews on the issue concluding that no coherent picture emerges.<sup>93</sup> For example Weber and Straubhaar analysed the net effects of immigration on the public transfer system in Switzerland. Their results suggest that resident foreigners create net benefits for the government budget. The study found that, in 1990, each foreign resident household created an average financial gain for the Swiss population of around \$1,700 in 1990 and suggested that Switzerland's overall annual fiscal gain from immigration amounted to approximately \$460 million (1996: 350). Similarly, a study by Fix and Passel (1994) found that immigrants in the United States pay more taxes and generate more government revenue than they create costs.

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<sup>93</sup> See for example Stalker (1994); Weber and Straubhaar (1996).

In contrast, Espenshade and King (1994) provide evidence that the positive fiscal effects of immigration may be reversed at the local government level. Smith and Edmonston (1997) also find negative fiscal impacts of immigrant-headed households on native residents in New Jersey and California. They estimate that the net annual fiscal impact of current immigrant-headed households on native residents in New Jersey and California were -\$232 and -\$1,178 per native household, respectively (1997: 292). The study cites three reasons for the negative impact: i) immigrant-headed households have more children than native households on average and therefore consume more educational services, ii) immigrant-headed households are poorer than native households on average and therefore receive more state and locally funded income transfers, and iii) immigrant-headed households have lower incomes than native households on average and thus pay lower state and local taxes (1997: 293).

Any assessment of the fiscal impacts of immigration is, in the end, critically dependent on the underlying methodology, especially on whether the fiscal accounting is static or dynamic. The static approach calculates the fiscal contribution of immigrants as the difference between the taxes they pay and the public expenditure they absorb in a given period (e.g. in a certain year). In contrast, the dynamic approach considers the entire stream of future taxes and expenditures associated with the immigrants and their descendants (see the discussion in Coleman and Rowthorn, 2004).

Many recent discussions of the fiscal impacts of immigration have been motivated by current demographic developments in high-income countries. The rapid ageing of the population experienced in most high-income countries has contributed to recent debates as to whether, and to what extent, immigration could be used as a means of preventing a dramatic decline in support ratios (i.e. in the ratios of the working-age population over the total population) which could eventually lead to a collapse of Western European social security systems.

The debate about 'replacement migration' was sparked by a report by the Population Division of the United Nations (2000). This calculated the average annual number of net immigrants needed to keep total populations, working-age populations and support ratios constant. It found that the levels of migration needed to offset population ageing are extremely large, and in all cases entail vastly

more immigration than has previously occurred.<sup>94</sup> The study thus concluded, 'maintaining potential support ratios at current levels through replacement migration alone seems out of reach, because of the extraordinarily large numbers of migrants that would be required'. Most contributions to the academic literature on the subject agree that, as the UN study suggested, immigration can *contribute* to the alleviation of the problem of ageing populations, but it can certainly not be the major and sole solution.<sup>95</sup>

The above review of what is known on the economic impacts of immigration on the migrant-receiving country makes clear that the current literature is still characterised by significant gaps and methodological limitations. For example the critical relationship between immigration and technical change (that is, whether the supply of cheap immigrant labour retards labour-saving technological progress) has not to-date been the subject of empirical study and thus remains obscure.<sup>96</sup> More generally, there has been little empirical analysis of whether and how immigration – in its much talked about role of 'alleviating labour shortages' – impacts on employers' decisions about outsourcing, capital-intensification, the choice of output produced or service provided, etc. Similarly, as illustrated by the recent 'discovery' of the potential transmission of local labour market impacts to the national labour market, there is also no reason to assume that existing studies of the labour market effects of immigration have accounted for all, or even the most important, channels of impact.<sup>97</sup>

It is often suggested that the overall economic effects of immigration are 'probably' only marginal, and most likely

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<sup>94</sup> In Japan, for example, the total number of migrants needed to maintain potential support ratios between 2000-2050 is 524 million (or 10.5 million per year). For the European Union, the total number of migrants needed is 674 million (or 13 million per year) (United Nations, 2000).

<sup>95</sup> For example Coleman (2002) showed that the entire world's population would need to migrate to the Republic of Korea by 2050 in order to preserve its current age-structure to that date.

<sup>96</sup> See the discussion surrounding the 'mechanisation controversy' in US agriculture (Martin and Olmstead, 1985).

<sup>97</sup> A recent study by Davis and Weinstein (2002) considers the terms of trade effects between the United States and the rest of the world (which had hitherto been largely excluded in the analysis of labour immigration) within a Ricardian framework to estimate that, in 1998, the combination of labour immigration and net capital inflows cost the US \$27 billion, or 0.8 per cent of GDP.

marginally positive.<sup>98</sup> Given the state of the current literature, this suggestion seems premature. Provided that the number and share of foreign workers in the national labour force are significant, it may be argued that the economic consequences of immigration could potentially be rather significant, especially when the economy is clearly at a disequilibrium point. For example it is clear that foreign workers played a major role in fuelling Europe's post World War II economic growth by holding down wages and maintaining high rates of profit, investment, and growth.<sup>99</sup> There are also a number of more difficult-to-measure impacts such as the potential benefits of immigrant's entrepreneurial activity on economic growth. On the other hand, there may also be circumstances under which immigration has, in one way or another, significant adverse economic impacts on (at least certain local economies of) the receiving country. For example where migration is 'fiscally' induced by differences in social entitlement programs, mass immigration may have severely negative effects on welfare recipients in the receiving country.<sup>100</sup>

#### *4.1.4 National identity and social cohesion*

National identity may be loosely defined as the shared set of beliefs and values of a country's residents. The meaning and substance assigned to national identity – and thus the way in which international labour migration may impact on it – may be complex and largely depend on how countries 'see themselves'.<sup>101</sup> For example a receiving country that sees itself as culturally homogeneous – such as Japan and Korea – may view the immigration of people with different cultural backgrounds as 'diluting' its national identity. In contrast, in countries with long histories of immigration – such as the USA, Canada and Australia – national identity may – arguably – be partly defined by cultural diversity, thus making immigration a potential tool for preserving or even increasing that diversity.

Jordens (1997) discusses how the increase in non-European immigration, after it had abandoned the 'White Australia' policy, was a key factor in Australia's transformation from a society that saw itself as essentially British in culture and ethnicity to one that is

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<sup>98</sup> See for example *The Economist* (2 November 2002).

<sup>99</sup> For a discussion see Kindleberger (1967).

<sup>100</sup> For a discussion of this problem, see Sykes (1995).

<sup>101</sup> On the notion of nations as 'imagined communities', see Anderson (1983).

beginning to define itself by its cultural and ethnic diversity. In contrast, French scholars continue to debate why and how national cultural norms have suppressed the emergence of diverse immigrant cultures, despite the significant inflow of foreigners, especially from Northern Africa.<sup>102</sup>

Linked to the discussion on the impacts of immigration on national identity are the debates surrounding immigration and social cohesion. The UK has recently seen a fierce debate about whether immigration is making Britain too diverse to sustain the mutual obligations behind a good society and the welfare state.<sup>103</sup> A commentary by Samuel Huntington – entitled ‘The Hispanic Challenge’ – recently ignited a similar discussion in the United States.<sup>104</sup>

More recently, the above listed considerations of national identity and social cohesion have been further conflated with considerations of public order and national security. For example, since the 9/11 terrorist attacks, national security has been a major concern in the immigration policies of the USA and also, increasingly, of other high-income countries such as the UK.<sup>105</sup>

It is important to emphasise that the discussion of the impact of immigration on national identity and social cohesion in the receiving country is complex and contentious, not least because there is great disagreement about the underlying concepts (e.g. how exactly does one define the national identity of a country?). The brief discussion above cannot do justice to the discussions and insights of the existing literature on these issues. Its purpose within this paper is to simply draw attention to the fact that migration *does* have a number of non-economic impacts (which may be perceived as positive or negative), however intangible and contentious those impacts may be.

#### 4.1.5 *Non-immigrants' rights*

In addition to impacting on collective notions of economic efficiency, distribution and national identity, international labour migration also affects the rights of individuals. Although there is

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<sup>102</sup> See, for example, Noiriel (1996).

<sup>103</sup> See Goodhart (2004) and responses.

<sup>104</sup> See Huntington (2004) and responses.

<sup>105</sup> For discussions of the relationship between immigration and national security, see for example Chisti et al (2003) and Martin (2004).

very little empirical research on this issue, one could argue that immigration could affect the rights of non-migrants (especially citizens) in the migrant-receiving country in two different ways. First, extending rights to migrant workers may negatively (or positively) affect the *value* of the corresponding rights of citizens. For example granting migrants the right to own certain types of property, such as land, may adversely affect the value of the corresponding right of a citizen, who needs to compete with non-citizens in the market for land, and may thus have to pay a higher price. Similarly, extending the right to certain social security benefits or public services, such as free public healthcare, to non-citizens may adversely affect the value of the corresponding right of a citizen, who may have to wait longer before receiving medical treatment unless the capacity of the medical system is increased. At the same time, when effective control of the border is economically and politically too costly, legalising illegal foreign workers – i.e. giving illegal migrant workers the right to legal residence and employment in the receiving country – could enhance the rights of citizens, because migrant workers with more rights are less likely to undercut citizens in terms of wages and working conditions.

Second, conferring certain rights on migrants may simply infringe upon the existing rights of non-migrants. For example one could argue that granting migrants the right to free movement within the national labour market, or admitting migrants without an effective mechanism that encourages employers to first check the availability of native labour, effectively eliminates a citizen's right to preferential access to the national labour market. Of course it needs to be emphasised that this impact may not always be considered as 'undesirable',<sup>106</sup> but its potential should be acknowledged.

#### 4.2 Impacts on sending countries

Although research on the consequences of international labour migration for sending countries began earlier than that on the receiving countries,<sup>107</sup> the literature on sending countries was for a long time much smaller than that on the receiving countries. This

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<sup>106</sup> Issues related to the ethical evaluation of the consequences of international labour migration are discussed in chapter 5.

<sup>107</sup> Two of the earliest contributions include Adams (1968) and Berry and Soligo (1969).

has begun to change in recent years as both academics and especially the policy community (including the World Bank<sup>108</sup>) has shown a renewed interest in the impact of emigration on sending countries, particularly on their economic development.<sup>109</sup>

Studies of the economic effects of emigration generally focus on the effects of remittances, production and labour market effects (including issues related to the 'brain drain') and the impact on a country's fiscal balance.

#### 4.2.1 *Remittances*

The effects of remittances, both in theory and practice, are generally held to be mixed. Drawing on Russel's (1986) review, the theoretical benefits of remittances include, *inter alia*: an ease in foreign exchange constraints and improvements in the balance of payments; the facilitation of imports of capital goods and raw materials for industrial development; the potential creation of savings and investment capital formation for development; the cushioning of the effects of oil price increases; an increase in the immediate standard of living for recipients; and an improvement of income distribution if the poor and less-skilled migrate.

On the other hand, researchers stressing the costs associated with remittances point out that remittances: are unpredictable; are spent on consumer goods which increases demand, increases inflation, and pushes up wage levels; result in little or no investment in capital generating activities; induce consumption demand with high import content, thereby increasing dependency on imports and exacerbating balance of payments problems; replace other sources of income, thereby increasing dependency, eroding good work habits and heightening potential negative effects of return migration; are spent on 'unproductive' or 'personal' investment (e.g. real estate, housing); and create envy and resentment and induce consumption spending among non-emigrants. A recent International Monetary Fund (IMF) study used panel data for more than 100 countries to

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<sup>108</sup> For example the *Global Development Finance Report in 2003* included for the first time a chapter on remittances. It pointed out that remittances are the second largest source, behind foreign direct investment, of external funding for developing countries.

<sup>109</sup> There is now a very active literature studying the impact of emigration on economic development. For recent reviews, see Ellerman (2003), Martin (2004), and the House of Commons International Development Committee (2004).

study the impact of remittances on economic growth (Chami, Fullenkamp and Jahja, 2003). It found remittances to have a significant negative impact on economic growth in migrant-sending countries, partly arising from a diminished work effort and labour supply of recipients of the remittances.

It is clear from the above list of potential costs and benefits of remittances that their net-impact critically depends on their *use* in the sending country. The majority of empirical studies find that most remittances are spent on consumption of imported consumer items and conspicuous consumption in general.<sup>110</sup> A more recent review by Taylor, however, paints a somewhat more positive picture, citing a study that found that – because of national multiplier effects on income, employment, and production – for every dollar sent or brought into Mexico by migrants working abroad, Mexico's gross national product (GNP) increased by about \$2.69 to \$3.17, depending on which household groups in Mexico received the remittances.<sup>111</sup>

#### 4.2.2 *Output and labour market effects*

Where emigrants had been gainfully employed prior to migration, emigration – especially that of skilled and highly skilled workers – may lead to a loss in human capital ('brain drain') and thus output/income. For example, between 1960 and 1987, Sub-Saharan Africa alone is estimated to have lost about 30 per cent of its highly skilled manpower, mainly to the European Community (EC).<sup>112</sup> According to a recent report, some 40 per cent of tertiary educated adults from Turkey and Morocco, and almost a third from Ghana, have emigrated to OECD countries (Lowell, Findlay and Stewart, 2004). The OECD estimates that about 17 per cent of South African practitioners and 10 per cent of South African healthcare workers lived abroad in 2000. Albuero and Abella (2001) report that about half of all the Philippine's IT workers emigrate.

To assess the impact of the brain drain on sending countries, Haque and Kim (1995) developed an endogenous growth model with heterogeneous agents to show that 'human capital flight' can lead to a permanent reduction in income and growth in the country of emigration. In contrast, Stark (2004) argues – at a theoretical level

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<sup>110</sup> For reviews see Chandarkavar (1980) and Taylor et al (1996).

<sup>111</sup> Taylor (1999), citing Adelman and Taylor (1990).

<sup>112</sup> Stalker (1994).

– that the brain drain might be outweighed by an increase in human capital formation in the sending country. Stark suggests that the opportunities to emigrate provide workers with an incentive to better educate themselves and to improve their skills. This analysis aims to demonstrate that because not all these workers will end up migrating to the better jobs, some will remain behind equipped with a higher level of human capital than would have been the case had the migration opportunity been absent. Stark argues that this can have a positive effect on the welfare of all workers in such countries.

Where significant, emigration may also impact on the wages of non-migrants (i.e. the workers ‘left behind’). There is some empirical evidence for the positive impact of emigration on the wages of non-emigrants. Noting that in the period 1850-1913 Irish real wages and per capita income increased significantly, Boyer et al (1994) use a computable general equilibrium model to study to what extent this wage increase could be explained by Irish emigration, which reduced the labour force by 25 per cent during that period. The authors conclude that real wages would have been lower in 1908 in the absence of emigration. Their results suggest that if capital was completely immobile (mobile), the real unskilled wage would have been 66-81 per cent (89-94 per cent) of its actual 1908 level. Similarly, in a study of the effects of emigration from El Salvador in the 1980s, Funkhouser (1992) finds evidence that wages were higher in the areas with the greatest number of international emigrants.<sup>113</sup>

In practice, the long-run output and employment effects of emigration critically depend on whether emigration is permanent or temporary. In the latter case of return migration, the above-discussed effects of skilled emigration may all be (at least partially) reversed. Furthermore, while abroad, unskilled emigrants may acquire skills, which may be valuable assets to the home country after the return of the migrant. On the other hand, the country of origin may encounter problems in re-integrating returning emigrants into its labour markets. In times of domestic recession and unemployment, returning emigrants may aggravate rather than alleviate economic problems in the country of origin.

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<sup>113</sup> O’Rourke (2004) reviews the literature on the labour market effects of emigration in the late nineteenth and early twentieth centuries. He concludes that the historical evidence suggests, ‘emigration is an incredibly effective way for poor countries to raise their living standards’ (2004:3).

### 4.2.3 *Fiscal effects*

Emigration also impacts on the fiscal balance of the sending country by reducing its tax revenues. A recent study of the fiscal impact of Indian emigration to the United States found that the net fiscal loss associated with the US Indian-born resident population ranged from 0.24 per cent to 0.58 per cent of Indian GDP in 2001.<sup>114</sup> The overall economic effects of emigration for the sending country thus appear to be ambiguous. One could nevertheless make the cautious argument that the existing evidence may be interpreted to suggest that the emigration of unskilled labour is likely to be beneficial (as production and fiscal effects are likely to be minor and the benefits from remittances may be significant) while that of skilled labour is often not. This conclusion is also supported by many sending countries' continued efforts to convince receiving countries to open their borders to more unskilled workers. Examples of this approach include the efforts of Vicente Fox, the Mexican president, to significantly liberalise migration flows from Mexico to the United States and the developing countries' efforts to include the issue of international labour migration into the agenda of the World Trade Organisation (WTO), in particular the General Agreement on Trade in Services (GATS) agreement.

### 4.2.4 *National identity and rights of non-migrants*

There is little doubt that large-scale emigration (such as that from Mexico and the Philippines) has an impact on national identity in sending countries, mainly through the way in which it contributes to the growth in imported consumer goods purchased with remittances and through the return of emigrants who have acquired some of the receiving country's values and habits. In some cases, emigrants may also exert considerable influence on national politics in their countries of origin.<sup>115</sup> It is easy to imagine that the political influence of emigrants abroad may also affect the bundles of rights of non-emigrants in the sending countries, although this has not yet been explicitly studied.

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<sup>114</sup> Desai, Kapur and McHale (2001).

<sup>115</sup> For a discussion of these issues see Fitzgerald (2000).

### 4.3 Impacts on migrants

In the context of international labour migration, employment abroad is generally motivated by, and often results in, the generation of significant financial gains for migrant workers and their families. Wages (and, it needs to be added, also living costs) prevailing in migrant-receiving countries are often multiples of those in migrant-sending countries, especially when the sending country is a less developed country and the receiving country is a high-income country.<sup>116</sup> Although not all migration stories are economic success stories and migrant workers may become victims of discrimination and/or exploitation in employment (see the discussion below), it is reasonable to generalise that, in the majority of cases, employment abroad leads to a *financial gain* that may have not materialised if the worker had stayed in his/her home country.<sup>117</sup>

At the same time, by virtue of their change in location and legal status (from citizens in their countries of origin to migrants in their countries of employment), migrant workers necessarily experience a change in the range and scope of their rights (and obligations). For example a migrant worker employed abroad under a temporary foreign worker programme is usually required to work for the employer specified on the work permit only, which restricts his/her right to freedom of movement in the labour market – a right enjoyed by most people in their home countries.<sup>118</sup>

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<sup>116</sup> Of course it needs to be added that the potential financial gains from migration significantly depend on, and vary with, the migrant worker's country of origin and destination. It is important to realise in this context that only about half of the world's international migrants move from less developed countries to developed countries, with the other half migrating *within* less developed countries (UNPOP, 2002).

<sup>117</sup> There is an active literature that studies the labour market performance (or 'economic assimilation') of immigrants over time. A recent study and review of the US literature suggests that, after controlling for differences in education, today's immigrant workers in the US (90 per cent of whom arrived after 1965) earn less than, i.e. have not yet 'caught up' with, their American counterparts. However, immigrants' children ('the second generation' of immigrants) actually earn *more* than US children, mainly because of higher levels of education that immigrant children have acquired (despite the lower education of their foreign-born parents) (Card, 2004).

<sup>118</sup> Of course it needs to be added that migration does not always lead to a restriction in migrant workers' rights. In some cases, employment abroad may *increase* the number and scope of rights enjoyed by migrants. This is typically the case where migrants come from undemocratic regimes and gain permanent residence or citizenship in more democratic countries.

Similarly, it is well known that international labour migration sometimes takes place within an environment of exploitation and what is widely seen as a violation of migrant workers' basic human rights.<sup>119</sup> Vulnerabilities to exploitation mainly arise in the private recruitment and employment of migrant workers. For example recruitment agents may take advantage of migrant workers' limited information about working and living conditions in the host country by misinforming them and charging excessive fees that bear little resemblance to the actual recruitment and placement costs incurred by these agencies.<sup>120</sup>

Vulnerabilities in employment often arise as a direct consequence of the requirement of many labour immigration programmes (especially of temporary work permit programmes) that migrant workers take up employment with the employer specified on the work permit only. Many of the programmes that allow migrant workers to change employers without leaving the country typically require the new employer to apply for a new work permit – a time and resource consuming process. Unless they are willing to return home, migrant workers may thus find it difficult or impossible to escape unsatisfactory working conditions. The problem may be exacerbated by some employers' illegal practices of retaining migrant workers' passports and by the provision of 'tied accommodation', i.e. accommodation provided by the employer to their migrant workers on the condition that – and as long as – the migrant keeps working for that employer. This may naturally result in employers gaining excessive control over migrant workers – a control that they cannot exercise over local workers – and thus potentially lead to exploitation. The latter may be manifested by, for example, practices of late wage payments, contract substitution<sup>121</sup>

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<sup>119</sup> See Taran (2000).

<sup>120</sup> Of course, in principle, the involvement of private recruitment agents may be an efficient way of linking employers in the receiving country with foreign workers in the sending country and there are good arguments for arranging recruitment through private rather than public recruitment agencies. For example some governments may not have the financial and personnel resources to organise public recruitment. Private recruiters may also have greater incentives to actively search for as many clients as possible, rather than just wait for clients (Böhning, 1996).

<sup>121</sup> 'Contract substitution' refers to a practice whereby, despite having signed an authorised contract prior to departure, upon arrival in the country of employment, the migrant worker is issued with a new contract specifying lower conditions of work, pay etc (ILO, 1999).

leading to lower than initially agreed wages and unreasonable work expectations, restrictions on movement, and sometimes even physical intimidation.

It needs to be emphasised that whether and to what extent migrant workers suffer a restriction or violation of their rights in a certain country of immigration is an important empirical question that cannot be answered based on theoretical considerations, anecdotes or generalisations from other countries. In the absence of such empirical evidence, one could argue that, by revealed preference, the net consequences of voluntary migration – i.e. the potential financial gains minus the potential costs associated with a restriction/violation of migrants' rights – are likely to be positive for most labour migrants. Rational and well-informed migrants would not migrate (or would return home) if there were no (more) net gains from moving to (or staying in) the receiving country.<sup>122</sup>

#### 4.4 Potential trade-offs

It is important to realise that the above-identified impacts of international labour migration are likely to be *inter-related* and potentially *conflicting*, which means that the relationship between them may be characterised by trade-offs. Based on the review above, some of the more important *potential* trade-offs between the consequences of international labour migration include the following.

- *Economic efficiency and distribution in the migrant-receiving country*  
In the short term, immigration may generate net economic benefits but harm local workers.
- *Economic efficiency and national identity in the migrant-receiving country*  
The level of immigration that maximises economic efficiency may differ from that considered socially desirable, based on its perceived impact on national identity.

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<sup>122</sup> Of course, this argument does not hold for migrants who are deceived into migration based on false information and are subsequently 'trapped' in the country of immigration (where 'trapped' implies that they are unable to return to their home countries because of a lack of money and/or the need to pay off debts incurred in the recruitment process).

- *Economic efficiency in the migrant-receiving country and economic efficiency in the migrant-sending country*  
The permanent migration of highly skilled workers may benefit the receiving country but could, at the same time, harm the sending country through the potential permanent loss of human capital ('brain drain') and likely decline in remittances that permanent emigration is usually associated with.
- *Migrants interests and interests of sending countries*  
The permanent migration of certain types of specialised and skilled workers may benefit migrant workers and their families, but could harm sending countries.
- *Migrants' rights versus migrants' economic welfare*  
Employment abroad may generate significant financial gains for migrant workers and their families, but it may do so at the cost of restricting the number and scope of rights enjoyed by migrant workers while employed abroad.<sup>123</sup>

It is important to emphasise that these trade-offs are not always inherent to international labour migration. Sorting out potential from actual trade-offs is an important task for empirical research. Where real, however, the various trade-offs in international labour migration need to be acknowledged and considered in the debate and design of labour immigration policy.

#### **4.4 Impacts of migration to Ireland**

This section discusses 'what we know and don't know' about the consequences of international labour migration to Ireland. The first point to make in this context is that the existing literature on migration to Ireland is extremely limited.<sup>124</sup> The few existing studies are primarily concerned with describing trends and patterns in

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<sup>123</sup> Martin (2003) refers to the migrants' welfare vs. migrants' rights trade-off as the numbers-rights dilemma. He cites the conclusion of a classic study by Fisher on Californian agriculture in the 1950s: 'The brightest hope for the welfare of seasonal agricultural workers [in the US] lies with the elimination of the jobs upon which they now depend' (Fisher 1953: 148). In other words, the only way of improving migrant workers' rights was to eliminate them from the workforce.

<sup>124</sup> For a recent overview of research on migration to Ireland, see Quinn and Hughes (2004).

immigration and immigration policies rather than with discussing their impacts.<sup>125</sup> As a result, there are huge gaps in the evidence base.

#### 4.4.1 *Impacts on Ireland*

There are no economic impact studies of immigration in Ireland that would in any way be comparable, in depth and scope of analysis, to the international studies reviewed above. As a result, there is no systematic evidence as to how immigration has affected Ireland's economic growth, labour market (including effects on wages, employment and collective bargaining), public services and the fiscal balance more generally.

The absence of comprehensive impact studies does not, of course, mean that nothing has been said about the economic effects of immigration in Ireland. Economists appear to agree, for example, that by increasing labour supply when domestic labour sources were drying up, the employment of non-nationals, especially that of skilled workers, played an important role in sustaining the high rates of economic growth since the late 1990s.<sup>126</sup>

With regard to labour market effects, FÁS argued, 'anecdotal evidence suggests that part of the rise in youth unemployment over the last year reflects some employers' preference for Work Permit recruits rather than young Irish persons'.<sup>127</sup> Similarly, Fitzgerald argues that, in contrast to the beneficial effects of the immigration of mainly skilled labour in the 1990s,<sup>128</sup> 'the substantial influx of less skilled migrants over the last four years potentially has rather different effects. While also enhancing the cosmopolitan nature of the economy and relieving unskilled wage pressures, if continued

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<sup>125</sup> Major existing studies on immigration of non-nationals in Ireland include the following: NCCRI (2004); Immigrant Council (2003b); NESF (2003); Ruhs (2003b); Conroy and Brennan (2003); MacEinri (2001); Ward (2001) and ICTU (2001). Punch and Finneran (1999) give a detailed analysis of the characteristics of migrants during the period 1986-1999. Immigration has also sometimes been discussed in the context of broader studies of the Irish economy and/or labour market, including Forfás (2004), FÁS (2002), ESRI (2001), NESF (2000), and Fahey, Fitzgerald and Maitre (1998).

<sup>126</sup> See for example Fitzgerald (2004) and the ESRI's overview of the Irish economy at <http://www.esri.ie/content.cfm?t=Irish%20Economy&mId=4>.

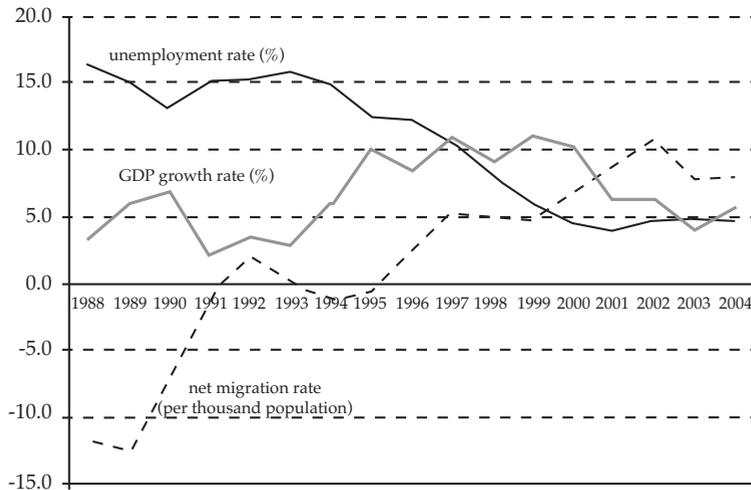
<sup>127</sup> FÁS (2002: 34).

<sup>128</sup> Barret, Fitzgerald and Nolan (2002) find that the immigration of skilled (mainly Irish) labour in the 1990s expanded the productive capacity of the economy and actually *helped* address the problem of long-term unemployment.

indefinitely it could push unskilled wage rates down and raise the rate of unemployment' (2004:12). In a recent paper on the impact of minimum wage legislation in Ireland, Nolan, Williams and Blackwell (2003) argue that the employment of low-skilled workers in the hotels/restaurants/bars sector may have contributed to the rising share of that sector in the total number of workers employed at or below the minimum wage in Ireland.

In his recent discussion of the transformation of the Irish labour market since the 1980s, Walsh (2004) suggests that rapid economic growth made it possible to have a rapidly expanding labour force without adverse impacts on unemployment. He argues, '... under favourable macroeconomic conditions, a well-functioning labour market can absorb a rapidly growing labour force into employment. Portugal in the 1970s and Israel in the 1990s, for example, absorbed large and sudden increases in their population into employment and the United States, with its rapidly growing labour force, has maintained a relatively low unemployment rate. Ireland in the 1990s can be added to this list of examples of favourable labour market outcomes' (2004: 11).

Figure 4.1: Economic growth, unemployment and net-migration in Ireland, 1988-2004



Source: Central Statistics Office

Notes: All years end in April.

With regard to issues pertaining to national identity and social cohesion, it is clear that the rapid increase in immigration over the past few years is transforming Ireland from a previously very homogenous society to a more ethnically diverse and multicultural one. For example, since 1991, the number of Muslims more than quadrupled to 19,000 and the number of Orthodox adherents increased from less than 400 in 1991 to over 10,000 in 2002. It is clear that immigration has exerted a major influence on these trends. What is less clear, however, is how these trends impact on Irish identity, i.e. on how Irelands' residents 'see themselves', and whether these impacts are perceived as positive or negative. Discussions about changing identities because of immigration are beginning to emerge. For example a major conference in 2003 on 'Re-imagining Ireland' explored Ireland's evolving national identity in a global context.<sup>129</sup> There have also been several academic conferences on this issue, including, for example: 'The expanding nation: toward a multi-ethnic Ireland' (1998);<sup>130</sup> and 'Emerging Irish identities' (1999).<sup>131</sup>

#### *4.4.2 Impacts on migrant workers and their countries of origin*

There has been no systematic empirical research undertaken in Ireland to-date on wages received, or remittances made, by migrant workers in practice. The only existing study on this issue is based on information provided by employers in the work permit application form.<sup>132</sup> This form asks employers to specify the gross weekly pay *offered* to migrant workers. There is, of course, no guarantee that migrant workers actually receive those wages in practice.

In 2002, the average gross weekly pay offered to migrant workers employed on work permits was €423.61. There is, however, significant variation across occupations (reflecting differences in skill requirements), and apparently also across economic sectors (reflecting differences in technology and possibly also rigidities in

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<sup>129</sup> See [http://www.re-imagining-ireland.org/essay\\_overview.asp](http://www.re-imagining-ireland.org/essay_overview.asp).

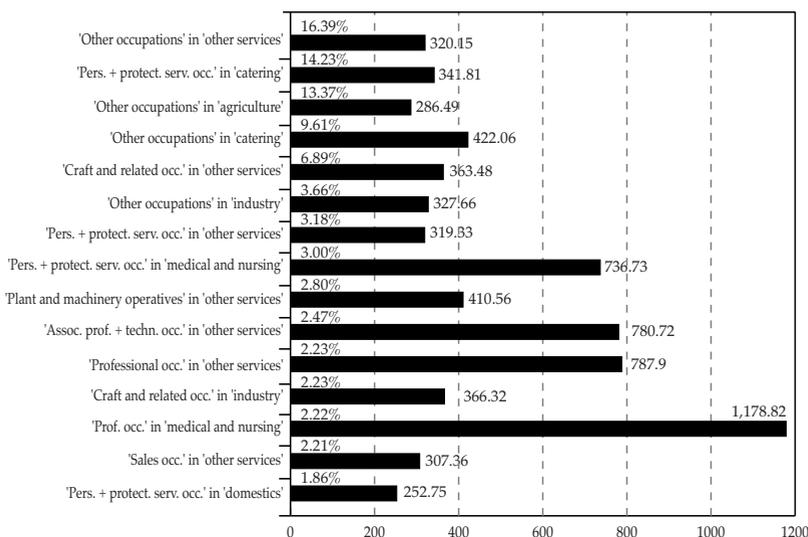
<sup>130</sup> See [http://www.tcd.ie/Sociology/mphil/mphil\\_site/dwnl/expanding\\_nation.pdf](http://www.tcd.ie/Sociology/mphil/mphil_site/dwnl/expanding_nation.pdf).

<sup>131</sup> See [http://www.tcd.ie/Sociology/mphil/mphil\\_site/dwnl/emerging\\_irish\\_id.pdf](http://www.tcd.ie/Sociology/mphil/mphil_site/dwnl/emerging_irish_id.pdf). See also work by Lentin (1999; 2000) and Boucher (2004).

<sup>132</sup> See Ruhs (2003b). This study contains a detailed descriptive analysis of work permit data for 1999-March 2003.

the labour market).<sup>133</sup> Data on weekly pay by occupation (see Table A10) suggests that the highest paid work permit holders are employed in associate professional and technical occupations (€1,033 per week), followed by professional occupations (€933), and managers and administrators (€556). The occupations with the lowest pay for work permit holders include sales occupations (€304 per week), other (unskilled) occupations (€336), and personal and protective service occupations (€383).

*Figure 4.2: Average gross weekly pay (EUR) offered to migrant workers employed on work permits, by selected occupation and economic sector, 2002*



*Source:* Work permits database, Department of Enterprise, Trade and Employment – see Ruhs (2003b)

*Note:* The percentage figures indicate the shares of the migrant workers employed in the 'job category' in the total number of migrant workers employed under the work permit system.

<sup>133</sup> These findings are preliminary and need to be corroborated by more systematic econometric analysis of the determinants of the wage offered to a work permit holder. A key barrier in completing this, however, is the absence of information in the work permit database on workers' education and work experience, two key explanatory variables in any human capital model of wage determination.

Taking account of both occupation and economic sector (as defined by the DETE's Work Permits Unit), Figure 4.2 shows the average weekly pay offered for employment in the fifteen job categories (characterised by broad occupation and sector) with the largest shares in the total employment of work permit holders in the year 2002. These fifteen job categories account for 86 per cent of the total employment of work permit holders in 2002.

The job categories with the lowest weekly pay offered to work permit holders are 'personal and protective services in the domestic service sector' (€253 per week – roughly equivalent to the minimum wage at the time) and 'other occupations in agriculture' (€286, approximately 14 per cent above the minimum wage).

*Table 4.2: Basic economic indicators for Ireland and major migrant-sending countries*

	GNI per capita in 2003 (PPP in \$)	GDP average annual growth rate 1998-2002 (%)	Unemployment rate in 2003 (%)
Ireland	30,450	8.49	4.6
Czech Republic	15,650	1.53	7.8
Poland	11,450	3.05	19.2
Lithuania	11,090	4.48	12.7
South Africa	10,270	2.41	31.0
Latvia	10,130	5.67	10.5
Brazil	7,480	1.63	6.6
Romania	7,140	0.77	8.10*
Ukraine	5,410	3.46	3.7
China	4,990	7.68	9.00*
Philippines	4,640	3.21	11.4*
India	2,880	5.35	9.5
Bangladesh	1,870	5.14	40*

\* in 2002

Source: World Bank, Eurostat, Economist country profiles

Even when employment in Ireland is at, or near, the minimum wage, the wages earned by migrant workers are still likely to be significantly higher than, and in some cases multiples of, the wages they would earn in their countries of origin. In the absence of suitable data for international wage comparisons, Table 4.2 indicates the differences in income per capita, economic growth and unemployment rates between Ireland and the major migrant-sending countries. It is clear that economic opportunities in Ireland are significantly better than in migrant workers' countries of origin. Of course, it needs to be added that the net financial gain from migration is not determined by wage differentials alone. It is also necessary to take account of differences in living costs and also of recruitment costs which are likely to be substantial for some migrant workers. Unfortunately, no data exist on those issues.

A significant number of the existing publications on migration to Ireland are concerned with migrant workers' rights. Non-governmental organisations,<sup>134</sup> trade unions and elements of the public media have persistently reported anecdotes about violations of migrant workers' rights, especially those pertaining to minimum wage<sup>135</sup> and employment conditions of migrant workers employed under the work permit system.<sup>136</sup> It has been argued that such abuses are directly related to the 'tying' of migrant workers to the

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<sup>134</sup> The two most prolific NGOs advocating migrants' rights in Ireland at present are the Immigrant Council ([www.immigrantcouncil.ie](http://www.immigrantcouncil.ie)) and the Migration Information Centre ([www.columban.com/mic.htm](http://www.columban.com/mic.htm)).

<sup>135</sup> It is interesting to note in this context that, in theory, the differences in work permit holders' reservation wages (which are likely to be largely determined by the wages prevailing in work permit holders' countries of origin) mean that nationality may have a significant impact on the wages received by migrant workers in Ireland. In other words, profit-maximising employers may, in theory, wage-discriminate between workers of different nationalities based on differences between the real wages prevailing in workers' countries of origin. The current state of the analysis for this paper does not allow it to test this hypothesis but it is hoped to do so in future work. The test of this hypothesis is important: if nationality is found to impact significantly on the wage offered to work permit holders, there may be important implications for both the protection of migrant workers' rights and also for any policy that attempts to change the composition of the work-permit population in Ireland.

<sup>136</sup> See for example Immigrant Council (2003a; 2004). A recent study of Irish labour migration of Polish nationals (Grabowska, 2003) also contains some information taken from in-depth interviews with Polish migrant workers in Ireland and a study by Conroy and Brennan (2003) also describes the experiences of migrant workers in Ireland.

employer who obtained the work permit. Consequently there have been calls for work permits to be issued to migrant workers themselves rather than to their employers, thus giving workers freedom of movement in the Irish labour market. The government has so far rejected these calls, pointing out that the current system is necessary to align migrant worker admissions with the labour market needs of the Irish economy. It has also been pointed out that the Department of Enterprise, Trade and Employment has in fact taken a flexible approach and approved of between 2,000-3,000 applications for new work permits that involved a change of employers by migrant workers already employed via work permits in Ireland.

Unfortunately, there has been little *systematic* evidence gathered to assess the extent of discrimination and migrants' rights violations in Ireland. Part of the reason for the lack of data is that the labour inspectorate – the DETE unit responsible for 'ensuring the observance of occupational safety and health and labour legislation, minimum pay and other provisions contained in Employment Regulation Orders and Registered Employment Agreements' – has stated that it cannot provide any data on the number of complaints made by, or on behalf of, migrant workers employed in Ireland. The official reason given to explain this state of affairs is that the labour inspectorate 'does not distinguish in its work between Irish and non-Irish workers' because 'Ireland's labour and equality legislation applies to all workers equally'.<sup>137</sup> As a result, the labour inspectorate claims that, although it maintains an internal database of all cases processed, it does not record the ethnicity or nationality of the workers making complaints.<sup>138</sup>

Table 4.3 contains information about the numbers of race-based cases processed by the Equality Authority, an independent body with the mission of promoting and defending the rights established in Ireland's equality legislation. It also shows the number of race-based claims referred to the Equality Tribunal, the independent statutory body responsible for deciding or mediating claims of alleged unlawful discrimination.

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<sup>137</sup> Personal communication with official at the labour inspectorate, August 2004.

<sup>138</sup> As of August 2004, the labour inspectorate had seventeen inspectors, all of whom are based in Dublin. In 2003, they carried out over 7,000 inspections including both routine inspections and inspections following complaints.

*Table 4.3: Race-based cases and claims processed by the Equality Authority and the Equality Tribunal, 2000-2003*

	Employment Equality				Equal Status			
	2000	2001	2002	2003	2000	2001	2002	2003
Race-based cases processed by the Equality Authority (% in total cases)	N/A	64 (15.8%)	107 (21%)	166 (39.6%)	N/A	33 (5.0%)	66 (8.3%)	80 (10.1%)
Race-based claims referred to the Equality Tribunal (% in total cases)	2 (1.4%)	27 (10.4%)	43 (14.3%)	85 (23.5%)	0	21 (2.5%)	26 (2.5%)	43 (6.0%)

*Sources:* Equality Authority; Equality Tribunal; Dublin

Of course not all race-based cases and claims involve migrant workers employed on work permits – but many do. The Equality Authority reports that, among the race-based cases processed in 2003 (a total of 166 cases), working conditions was the largest category of complaint (77 or 46 per cent of the total), followed by dismissal (34 or 20 per cent) and access to employment (22 or 13 per cent) (Equality Authority, 2004: 42).

These data are too limited to make strong conclusions about the effective implementation and enforcement of the rights and protections offered to migrant workers under Ireland's equality legislation. In the absence of systematic evidence, the suggestion that the exploitation of migrant workers may be fairly widespread can be neither supported nor refuted. What can be said based on the anecdotal evidence provided by NGOs is that at least some migrant workers employed in Ireland do experience a significant trade-off between economic gains and restrictions of their rights.

## Policy objectives and basic policy principles

Chapter 4 identified significant gaps in the evidence on the impacts of international labour migration to Ireland. This has left Ireland's policy makers in the difficult position of having to design labour immigration policies based on an incomplete and highly contested evidence base. Increasing the range and quality of information about the trends, patterns and consequences of international labour migration to Ireland must undoubtedly be one of the most important steps toward improving Ireland's public immigration debates and the policy choices for government. It will not, however, be enough.

The second key step in furthering the debate on and design of Ireland's labour immigration policy is to define its objectives. This requires policy-makers to make difficult decisions about which of the multifaceted and inter-related consequences of international labour migration should be given most importance in the design of Ireland's labour immigration policies, and why.<sup>139</sup> This is an inherently normative exercise that requires a discussion of values and ethics, rather than a discussion that is solely based on facts about migration and its impacts.

This chapter aims to provide a framework for identifying the objectives and ensuing basic policy principles of Ireland's labour immigration policies. It first briefly explains the key role of the underlying ethical framework in determining the objectives of a country's labour immigration policy. It then makes the case for a 'balanced approach' to choosing policy objectives and proposes a set of core considerations that such an approach would need to be based on. Based on these considerations, the third section of this

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<sup>139</sup> In terms of Table 4.1, the choosing of policy objectives requires policy-makers to evaluate and assign weights to the various impacts of international labour migration. One could argue that, if labour immigration policy is made at the national level, the process of assigning weights to the various migration impacts in Table 4.1 defines the 'national interest'. This framework for defining the national interest would be in line with Nye, who suggests, '... global interests can be incorporated into a broad and far-sighted concept of the national interest' (2002: 236).

chapter identifies a set of basic policy principles that constitute the ‘building blocks’ for the more specific policy options for managing the employment of non-EU nationals discussed in chapter 6.

### 5.1 Key role of the underlying ethical framework

In practice, the decision about which consequences of migration are more important than others is usually observed – and typically analysed – as the result of the political negotiations and power struggles between the key political stakeholders and various interest groups. It is important to realise, however, that the politics of migration<sup>140</sup> is conducted within a certain *ethical* framework. This means that – although played out in the political domain – the assignment of weights to the ten types of impacts in Table 4.1 is, in the end, an inherently normative exercise. This opens up an important – but all too often neglected – discussion of the values and ethical considerations that inform, or *should inform*, the choice of policy objectives and the subsequent design of a labour immigration policy.<sup>141</sup>

It is useful to distinguish between two key questions in this discussion of the ethics of labour immigration policy:

- to what extent, if at all, should the outcomes for collectives – such as economic efficiency, distribution and national identity – and the economic welfare of individuals be given priority over individuals’ rights?
- to what extent, if at all, should the interests of citizens be given priority over those of migrant workers and their countries of origin?

The answers to these questions – which differ from one ethical theory to another<sup>142</sup> – constitute an ethical framework. Different

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<sup>140</sup> For a recent discussion of the politics of migration, see Spencer (2003) who argues that managing migration is essentially about trying to balance the following high-level objectives (some of which may be conflicting): achieving labour market objectives, protecting national security, minimising public expenditure, promoting social cohesion, honouring human rights obligations and promoting international development and cooperation.

<sup>141</sup> For a discussion of the ethics of labour immigration policy, see Ruhs and Chang (2004).

<sup>142</sup> For a discussion of the desirable degree of consequentialism – i.e. the degree to which the ethical evaluation of public policies (or private action) should be made in terms of outcomes (ends) rather than processes (means) – see for example Scheffler (1998). For a discussion of the ‘moral standing’ to be accorded to non-citizens, see for example Nussbaum (1996) and Goodin (1988).

ethical frameworks naturally give rise to very different definitions of the objectives of a 'desirable' labour immigration policy, as reflected in the different weights given to the impacts in Table 4.1. It could be argued, for example, that the policy principles espoused in ILO's Migrant Worker Conventions or in the UN's International Convention on the Protection of the Rights of All Migrant Workers and the Members of their Families (MWC) are based on an ethical framework of 'rights-based cosmopolitanism', which emphasises the individual's rights rather than the individual's economic welfare, or the consequences for society, and accords a very high degree of 'moral standing' to non-citizens. The outcomes for citizens and non-citizens are given (almost) equal weight in the ethical evaluation.<sup>143</sup>

In contrast, the current labour immigration policies of many migrant-receiving countries appear to be based on an ethical framework of 'consequentialist nationalism', which focuses on the consequences for the community rather than the rights of individuals, and accords a significantly lower moral standing to non-citizens than to citizens. In other words, the preferred labour immigration policies of most receiving countries tend to place most weight on economic efficiency, distribution, and national identity (including security) of their citizenries as collectives, less weight on individual rights (related to the employment of foreign workers) of their citizens, and least weight on the impacts on migrants and non-migrant citizens of sending countries. This is perhaps best illustrated by the popular appeal of the 'manpower planning exercises' that underpin many countries' labour immigration policy-making.<sup>144</sup> It is also reflected in, and the major explanation for, the low number of countries that have ratified the relevant two ILO conventions and the UN treaty on migrant workers.<sup>145</sup>

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<sup>143</sup> In line with the Universal Declaration of Human Rights, the rights contained in the UN's MWC are intended to be *universal* (i.e. they apply everywhere), *indivisible* (e.g. political and civil rights cannot be separated from social and cultural rights), and *inalienable* (i.e. they cannot be denied to any human being and should not be transferable or saleable, not even by the holder of the right him/herself).

<sup>144</sup> In immigration policy, manpower planning usually results in discussions about the number and type of migrant workers that will maximise economic benefits and minimise distributional consequences for the receiving country.

<sup>145</sup> ILO Convention No. 97 (which came into force on 22 January 1952) has been ratified by 42 member states, while ILO Convention No. 143 (which came into force in 1978) has been ratified by only 18 member states. As of February 2004, the MWC had been signed by only 25 member states, most of which are

## 5.2 A balanced approach to the design of labour immigration policy

Given the multitude of competing ethical theories, it needs to be recognised that there is no single ‘correct’ starting point for theoretical reflection in the ethical discourse on immigration.<sup>146</sup> However, if the objective of the ethical discourse is to yield practical policy implications (as it is in this paper), there is a strong argument to be made for adopting a *balanced approach* that takes account of the existing realities in labour immigration policy making (such as the consequentialist nationalism underlying many migrant receiving countries’ current policies) and, at the same time, recognises the active promotion of the interests of migrant workers and of their countries of origin as a key policy objective.<sup>147</sup> Such a balanced approach would be based on the following core considerations.<sup>148</sup>

First, all the impacts in Table 4.1 *may be* potentially legitimate determinants of a viable and ethical labour immigration policy. This implies that discussions about labour immigration need to address the impacts of international labour migration in an explicit, well-informed, and honest manner. This requires, among other things, a thorough understanding of the consequences of international labour migration (including relevant trade-offs) and an active discouragement of the ‘polarisation’ of immigration debates.

Second, if one accepts the legitimacy of nation states, national policy makers have an obligation to assign at least some more weight in their policy decisions to the impacts on residents (and, in some cases, citizens) than to those on non-residents. Thus, a balanced approach to the design of labour immigration policy would, at a minimum, require policies that: protect a citizen’s right

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<sup>145</sup> *contd.* predominantly migrant-sending rather than migrant-receiving countries. As shown in Tables A11 and A12, these numbers of ratification are very low both in absolute terms (that is, considering the total number of ILO and UN member-states) and in relative terms (that is, compared to the number of ratifications of other major ILO conventions and UN human rights treaties).

<sup>146</sup> See Carens (1996).

<sup>147</sup> Compare the important discussion in Carens (1996).

<sup>148</sup> The discussion below is conducted at the general level, i.e. it is meant to suggest an *approach* to managing labour immigration, rather than specify its policy implications for any particular country. Section 5.2.3 discusses first policy implications for Ireland, and chapter 6 discusses more specific ‘policy options’ for Ireland.

to preferential access to the national labour market;<sup>149</sup> ensure that the receiving country derives net economic benefits from the employment of migrant workers; and prevent immigration from adversely affecting national security, public order and the social and political stability of the receiving country.

Third, migrant workers face particular vulnerabilities in international labour migration and their *interests* therefore need special promotion and protection. Furthermore, these interests are multifaceted, comprising both migrant workers' rights and their economic welfare (see Table 4.1). Given that the promotion of migrant workers' rights and economic welfare may sometimes be negatively correlated, an extreme rights-based policy would imply that no level of improvement of foreign workers' welfare justifies the restriction of some of their rights. Considering that many migrant workers migrate for economic reasons, giving such minimal weight to their economic welfare seems unlikely to be in their overall interest.

At the same time, it is equally obvious that policies driven and justified by an almost exclusive concern for the economic welfare of migrant workers, with little or no regard to their most basic human rights (the voluntary slavery or sweatshop argument), would be equally objectionable within an approach that purports to be concerned with the overall interest of migrant workers. Rather than insist on a very comprehensive set of inalienable rights for migrant workers – as the UN's MWC currently does – however, a balanced approach would first identify and effectively enforce a basic set of rights that must not be violated, and then give migrant workers at least some voice/agency in – and the necessary information for – choosing whether and how to balance an increase in their incomes with a restriction of some of their rights while employed abroad.<sup>150</sup>

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<sup>149</sup> Of course there are instances in which a country may decide to waive this right. The freedom of movement and employment within the countries of the pre-enlarged European Union is a case in point.

<sup>150</sup> In practice, migrants may not be prepared to give up – or nation states would not wish to deny migrants – most of the rights enjoyed by citizens. But there may be important exceptions. For example if the introduction/operation of a guest worker programme facilitates a relatively 'liberal' labour immigration policy in the migrant-receiving country – where liberal is defined with regard to the number of migrants admitted – migrants may be willing to accept the restrictions imposed on them under such a programme (i.e. a time-limited right to residence and employment) in return for a relatively high probability of admission.

Fourth, the vulnerabilities of sending countries are significant, and stem from inherent asymmetries in the regulation of international labour migration: it is a human right to emigrate and return to one's country of origin, but there is no equivalent right to migrate to another country. As a result, there are relatively fewer opportunities for sending countries to regulate emigration than for receiving countries to regulate immigration. For example receiving countries may effectively restrict the immigration of a highly skilled worker from a developing country if deemed necessary to protect the receiving country's labour market. In contrast, there is relatively little that sending countries can do to restrict the emigration of a highly skilled worker, even if the loss of human capital has significant adverse effects on the sending country's economy.

These asymmetries in the regulation of international labour migration create at least some obligation for receiving countries to make their labour immigration policies 'development-friendly' for sending countries. This could be achieved by creating legal and readily accessible channels for the flow of remittances, discouraging the permanent immigration of highly skilled migrant workers, where such migration would constitute a serious harm to the sending country, and by encouraging the return and/or circulation of migrant workers. The best way of promoting sending countries' interests in international labour migration would be to adopt a more inclusive approach to the design of labour immigration policies and to cooperate with sending countries in (at least some aspects of) policy design.<sup>151</sup>

Fifth, in order to avoid policy contradictions and promote overall policy coherence, the choice of the objectives of labour immigration policy should not be too dissimilar from those of the policies regulating other aspects of a country's economic openness – such as international trade and capital flows.

To be sure, international labour migration and international trade and capital flows are not symmetrical phenomena. Although most of the purely economic effects could be similar – e.g. the labour market impacts of immigration could be similar to those of imports or investment abroad – the international flow of workers also generates a number of non-economic effects, such as impacts on

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<sup>151</sup> Weil (2002) makes the case for a coherent policy of co-development based on more cooperation between migrant receiving countries, sending states and migrants themselves.

national identities of countries and on the rights of individuals, that rarely arise as a result of international trade and capital flows. For this reason there is no *a priori* inconsistency in receiving countries' policies of encouraging the liberalisation of international trade and capital flows to a greater degree than that of international labour flows.

A balanced approach to the design of labour immigration policy would, however, ensure that the *degree* of asymmetry between the restrictions on international flows of labour, capital and labour reasonably reflects the differences between their economic and non-economic impacts. When assessing those differences, it is important to bear in mind that, because the integration of international labour markets is significantly lower than the integration of international markets for capital and commodities, the liberalisation of international labour migration would generate significantly higher economic benefits than those derived from further liberalising international trade and capital flows.<sup>152</sup>

To be sure, the considerations above are fairly general and are not meant to – and do not – go as far as identifying the specific values and ethical considerations – and the ensuing policy objectives – that should underlie the design of Ireland's labour immigration policy. They should be understood as a first proposal to the debate on a core set of requirements and considerations to inform and guide the process of balancing the various consequences of international labour migration to Ireland for all sides involved.

### **5.3 Basic policy principles for managing the employment of non-EU nationals**

This section proposes six basic policy principles for reforming Ireland's current labour immigration programmes. It draws from the overview of Ireland's existing policies presented in chapters 2 and 3, the review of the potential impacts of immigration in chapter 4, as well as on the theoretical considerations of a balanced approach to managing labour immigration identified in sections 5.1 and 5.2 of this chapter.

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<sup>152</sup> See Rodrik (2002).

### 5.3.1 *Comprehensiveness*

There is a need to take a *general approach* and recognise that managing labour immigration requires policies that regulate all potential channels that non-EEA nationals can use to access the Irish labour market. This includes channels for direct 'entry' (or 'direct acquisition of the permission to work in Ireland') and avenues for acquiring the permission to work after arriving in Ireland ('switching status'). As described in chapter 2, the existing channels currently include: the various employment-based immigration programmes (specifically the work-permit system and the work visas and authorisation scheme); non-employment based programmes that give migrants some degree of legal access to the labour market (especially students); and the potential avenues for illegal immigration and/or illegal working (e.g. illegal immigrants, visa over-stayers, asylum seekers, and dependents without work permits).

In addition to thinking about the need to regulate the existing channels of labour immigration and ways to do so, a general approach also requires an identification of 'missing programmes' and a discussion of whether and how new policies should be introduced to fill the identified 'policy gaps'. An obvious example of a potential policy gap in Ireland's current labour immigration policies is the current lack of a permanent immigration programme that could be used for both 'direct entry' for newcomers, and for securing permanent residency status for those migrant workers already employed in Ireland on temporary work permits.

### 5.3.2 *Rationality*

The principle of rationality requires policy development to be based on an understanding of the multifaceted and inter-related consequences of international labour migration for all sides involved. As shown in chapter 4, although there is an active and increasing literature on the theoretical and empirical impacts of international labour migration in other countries, the understanding of the impacts of immigration in Ireland is still quite limited. There is thus an urgent need to begin to close the significant gaps in the evidence base on trends, patterns and impacts of international labour migration to Ireland. This will require more research and, as a necessary precondition, greater efforts to both make more of the existing administrative data available for analysis

(e.g. work permits data and PPS data), and to generate new data and information where no administrative or other systematic data are currently available.

For example systematic data is needed about the economic and social outcomes of migrant workers, particularly the wages they receive in practice (which may well differ from those offered to them on the work permit application form) and indicators of their working conditions. The latter would almost certainly require the labour inspectorate to take a more active role in recording and reporting on the employment conditions of migrant workers.

It is important to add in this context that the increase in information about migrants and their impacts must also include more data and analysis of the employment of accession state nationals. Although it is still too early to assess the actual inflow of newcomers, the recently released PPS data suggest that the number of workers from the new EU member countries taking up employment in Ireland after EU enlargement has been higher than expected. This has recently renewed concerns about the potential impact on the employment prospects of EEA (particularly Irish) workers. Although there is no evidence yet on whether and how Ireland's labour markets have been affected by EU enlargement, it clearly is an important issue that may have important implications for Ireland's policies for managing the immigration and employment of workers from outside the enlarged EU.

Furthermore, in addition to generating more evidence about the impacts of migration, the principle of rationality also requires that Ireland's public debate on labour immigration be based on a greater awareness of the potential trade-offs in international labour migration. Any proposals for new and better policies need to consider their consequences for all sides. In the absence of this, well-intentioned proposals for reforming Ireland's labour immigration policies may, in the end, generate more costs than benefits.<sup>153</sup>

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<sup>153</sup> For example in order to better protect migrant workers employed under the current work permit system, it has been suggested that work permits should be issued to workers (rather than to employers as is currently done), giving workers *complete* freedom of movement in the Irish labour market. Others have gone further and suggest that Ireland should *replace* the current temporary work-permit system with a US-style 'green card system', thereby creating a permanent immigration programme. The discussion in section 4.1 suggests that, although these policies may benefit *some* migrant workers, they could harm others by potentially reducing the number of migrant workers admitted to Ireland for

### 5.3.3 *A balanced approach*

As discussed earlier in this chapter, a general case can be made for a balanced approach to the process of choosing policy objectives and designing Ireland's labour immigration policies. To translate the core considerations of such an approach (discussed in section 5.2) into practice, at least three measures are necessary.

First, regardless of the specific policies of Ireland's future labour immigration programmes, it will be necessary to recognise the importance of significantly improving the effectiveness of the labour market test, i.e. the mechanism that checks for the availability of local (including accession state) workers before giving permission to employ migrant workers from outside the enlarged EU. In the absence of an effective labour market test, the employment of migrant workers is likely to be both economically inefficient and potentially harmful to the employment prospects of local workers. The latter could result in increased opposition to a liberal immigration policy and eventually lead to a radically reduced intake of migrant workers.

Second, it needs to be recognised that Ireland's labour immigration policies require better and special safeguards that guarantee and protect migrant workers' 'agency' (that is, their ability to make independent and well-informed decisions in a constantly changing environment), both before and after migration to Ireland. This is likely to involve giving migrant workers, as soon as feasible after their arrival and first employment in Ireland, at least *some* freedom of movement within certain occupations or sectors of the Irish labour market. Furthermore, there is a need to ensure that migrant workers join Ireland's labour immigration programmes based on a well-informed assessment of the consequences of this decision for their welfare and rights. Among other things, this necessitates transparency in the operation of the programme and 'truth in advertising,' which entails strict enforcement against local employers or recruitment agents who recruit and employ migrant workers based on the provision of misleading information about employment and living conditions in Ireland.

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<sup>153</sup> *contd.* employment purposes. A large-scale permanent immigration programme that grants workers complete freedom of movement in the labour market may also put pressure on the wages and employment conditions of Irish workers in sectors that do not face labour shortages. It may also potentially harm sending countries by permanently draining them of their highly skilled workers.

Third, there is a need to actively consult, involve and consider the interests of sending countries in the design of Ireland's labour immigration policies. This will be particularly important if the government implements its plans of moving toward a more skills-based labour immigration policy (because such a policy might potentially damage the economies of some developing countries whose highly skilled nationals emigrate to Ireland).

#### *5.3.4 Consideration of potential policy lessons from other countries*

Given that there are many countries with much longer histories and experiences of debating and managing labour immigration, there is a need for Ireland to study the potential policy lessons from other countries.<sup>154</sup> It is important to emphasise, however, that efforts to 'learn from the international experience' must not result in a search for 'best practices' that Ireland may import and implement wholesale. The fact is that there are simply no widely accepted 'best practices' because few countries have managed labour immigration well. The negative lessons from the international experience by far outweigh the positive ones. Furthermore, the most efficient and desirable tools for managing labour immigration may critically depend on the institutional and economic context of the receiving country. As Papademetriou and O'Neill recently noted, 'best practices applied clumsily in different economic, social and historical settings may very well lead to in worst outcomes' (2004: 4).

#### *5.3.5 Consideration of international policy constraints*

There are few substantial international constraints on the way Ireland determines the *number* and *selection* of migrant workers from outside the EU. Efforts to harmonise immigration policy at the EU level have met with very limited success.<sup>155</sup> In particular, the Council of the EU

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<sup>154</sup> For an extensive review of labour immigration policies in other countries, see IOM (2002). For a discussion of the international experience with temporary foreign worker programmes, see Ruhs (2003a).

<sup>155</sup> The EU directives adopted so far include the Directive on family reunification, the Directive on long-term residents, and the Directive on residence permits for victims of trafficking and smuggling. Political agreement has been reached with respect to the Directive on the admission of students. Other proposals in the pipeline include the Directive on the admission of third country nationals to carry out scientific research and two proposals for Council recommendations to facilitate the admission of researchers (European Commission, 2004).

recently failed to reach an agreement on a Directive on the admission of third country nationals for employment purposes (which was put forward in 2002).<sup>156</sup> Furthermore, although there have been repeated calls for some sort of international governance of international labour migration, there is currently no multilateral framework for regulating cross-border migration at the international level.<sup>157</sup> A relatively minor exception is the temporary migration of natural persons as 'service providers' under Mode 4 of the WTO's General Agreement on Trade in Services (GATS). The limited commitments made to-date under Mode 4 of GATS refer almost exclusively to skilled and specialised workers, particularly intra-corporate transferees.<sup>158</sup>

One aspect of immigration policy that *is* constrained by international instruments/policies is the bundle of rights accorded to migrant workers after they have been admitted to Ireland.<sup>159</sup> For example Ireland has ratified the ILO's Equality of Treatment Convention and is a state party to most of the UN's major human rights conventions<sup>160</sup> and to the European Convention on Human Rights (ECHR), which requires Ireland to guarantee the rights therein to everyone within its jurisdiction. Important international conventions, pertaining specifically to migrant workers, that Ireland has not ratified include the three ILO conventions aimed at protecting migrant workers and the UN's very comprehensive International Convention on the protection of All Migrant Workers and members of Their Families.<sup>161</sup>

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<sup>156</sup> Taking stock of the deadlock, the EU Commission is planning to launch a comprehensive consultation process on economic migration in the second half of 2004 (European Commission, 2004).

<sup>157</sup> For discussions of the need for a World Migration Organisation see Bhagwati (2003). Also see the recent ILO report 'Towards a fair deal for migrant workers in the global economy' (2004) and the ongoing work of the Global Commission on International Migration ([www.gcim.org](http://www.gcim.org)).

<sup>158</sup> See the discussion in Winters et al (2002).

<sup>159</sup> For a comprehensive overview of the relevant EU and international standards, see NCCRI and Irish Human Rights Commission (2004).

<sup>160</sup> These conventions include: the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC).

<sup>161</sup> As mentioned in chapter 5, this convention has to-date been ratified by only twenty-five member states. None of the major high-income and migrant-receiving countries have ratified it.

## Policy options

This final chapter discusses the need and potential policy options for:

- re-adjusting Ireland’s current work permit system
- introducing a permanent immigration programme
- strengthening the regulation of the employment of foreign students
- combating illegal immigration and illegal working.

The discussion of each of these key policy issues draws from the overview of Ireland’s existing policies in chapters 2 and 3, the review of the potential impacts of immigration in chapter 4 and the basic policy principles identified in chapter 5.

### 6.1 Re-adjusting the work permit system

This section discusses the rationale and potential policy options for: i) reforming the current mechanism for regulating the admission of migrant workers; ii) introducing safeguards to protect migrant workers’ rights; and iii) encouraging migrant workers to return home after their temporary work permits have expired. A fourth important policy necessary to re-adjust the work permit system is the introduction of opportunities for a conditional transfer of migrant workers from temporary to secure permanent immigrant status, without having to acquire Irish citizenship. This latter policy is discussed in section 6.2.

#### *6.1.1 Regulating the admission of migrant workers*

There are two major reasons for reforming Ireland’s current policies for admitting migrant workers on temporary work permits. First, there is a clear need to improve the current mechanisms for checking and verifying the unavailability of local workers before permission is given to proceed with a work permit application. Following EU enlargement, the labour market test administered by FÁS applies to a much larger pool of potential EEA workers,

including all workers from the accession states. Given its history of failure, one cannot expect that this expanded labour market test will be any more successful than that implemented before 1 May. There is thus a clear need to consider how existing policies can be improved.

Furthermore, there is scope for questioning the rationale of the current mechanism for determining the eligibility of occupations/sectors for work permit purposes. It is surprising, for example, that the existing list of ineligible job categories applies across all regions of Ireland. Regional labour market situations usually differ and workers from one region may not necessarily be willing to take up jobs in another region.

Second, it is not obvious that the government's recent decision to exclude low-skill occupations from the work permit system is the 'logical' policy following EU enlargement.<sup>162</sup> One could hypothesise, for example, that accession-state nationals will choose to leave or shy away from certain low-skilled work that does not correspond to their skills or aspirations. In some cases, this might lead to the desirable elimination of certain jobs that have previously existed only because an underpaid and overworked immigrant workforce was available. In other cases, it may result in continuing and 'genuine' labour shortages at the low-skill end. Where this is the case, the government may need to re-introduce new and improved policies for selectively admitting migrant workers for temporary employment in certain low-skill occupations.

The remainder of this section reviews and evaluates the various policy tools for regulating the admission of migrant workers under a temporary work permit system. Depending on the degree and type of government intervention, one may broadly distinguish between three modes of regulating the number of (annual) admissions under a temporary foreign worker programme: quotas, economically oriented work permit fees, and laissez-faire admissions. Each of these policies may or may not be accompanied by some sort of labour market test.

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<sup>162</sup> One could also question the effectiveness of the DETE's current policy of evaluating the eligibility of work permit applications on a case-by-case basis, based on the qualifications of the workers and pay offered by the employer. In the absence of clear and uniform criteria, there is a chance that this practice may not achieve the stated policy objective of restricting the issuance of new work permits to employers of migrants working in skilled and specialised occupations only.

## Quotas

In principle, quotas may be set for the country as a whole, for the country's various regions or administrative districts, for certain sectors of the economy, for specified occupations, and/or for individual employers or enterprises (Böhning, 1996). For example, under the H-1B Programme for recruiting skilled and specialised migrant workers in the US, the annual quota is set by Congress for the country as a whole (65,000 in 2004,<sup>163</sup> excluding dependents who are allowed to join the H1-B visa holder in the US). In contrast, the quotas for the one-year work permits issued under the Swiss *Auslaenderausweis B* Programme are set at both the federal and regional level: in 2001, for example, the total annual quota was 22,000, comprising quotas of 10,000 for distribution by the *Bund* (Federal Government) and 12,000 for distribution by the *Cantons* (regional governments).<sup>164</sup> As an example of quotas at the company level, Singapore imposes sector specific 'dependency ceilings' that specify the maximum share of foreign workers with work permits in the total company workforce. For example the current dependency ceiling in the service sector is 30 per cent of the company's total workforce.<sup>165</sup>

A major advantage of setting quotas is a political one: by setting a numerical cap on the number of migrant workers admitted every year, the government creates the perception that it is in 'control of labour immigration'. Furthermore, the process of setting quotas may, in principle, involve consultations with a wide range of stakeholders (e.g. the social partners in the Irish case), which may help give the process the characteristics of a relatively transparent and democratic tool of public policy-making.

In practice, however, setting quotas is a highly problematic and frequently inefficient way of regulating inflows. Most importantly, as a critical precondition for setting economically efficient quotas, there needs to be an effective and reliable system of forecasting domestic labour shortages. Unfortunately the business of forecasting labour demand and supply is fraught with difficulties and has, in recent years, been widely discredited as a highly

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<sup>163</sup> The quota for H1-B visas has been significantly reduced in recent years – for example it was set at 195,000 in 2001.

<sup>164</sup> Italy and Spain also set quotas that differentiate between different regions and industries.

<sup>165</sup> See [www.mom.gov.sg](http://www.mom.gov.sg).

imperfect procedure.<sup>166</sup> Furthermore, quotas have frequently proven too rigid a tool to efficiently respond to the changing needs of the domestic labour market. Changing quotas may potentially involve difficult political discussions.

### Economically-oriented work permit fees

While most countries' temporary work permit programmes impose administrative permit fees of some sort, Singapore is the only country that systematically uses economically-oriented fees to influence the annual number of admissions under its work permit programme. As shown in Table A13, these so-called 'foreign worker levies' are flexible (i.e. regularly revised) and specific to the sector of employment and the skill level of the migrant workers. Singapore has used the combination of economically-oriented foreign-worker levies and dependency ceilings to 'micro-manage' the inflow and employment of unskilled migrant workers.

In theory, work permit fees can be a very useful and flexible way of managing the inflow of migrant workers. If set at the right level, they could, for example, help protect local workers' rights to preferential access to the labour market by creating financial incentives for employers to search for local workers who can be employed without paying the fee. Work permit fees could also be used as a means of industrial policy. They could be set at levels that encourage employers to consider alternative measures such as mechanisation or outsourcing before considering the recruitment of migrant workers. This could help prevent a situation where inefficient companies and industries remain viable only because they are subsidised by a readily available and cheap immigrant workforce. Finally, the revenues from work permit fees could be used to generate funds for enforcement and integration assistance, and/or to mitigate the potential adverse impact on local workers by funding their re-training and skill development (Martin, 2003).

To implement fees effectively and to translate the theoretical benefits above into practice, three main challenges need to be overcome. First, the government of the receiving country needs to accept the proposition that the merits of micro-managing the employment of migrant workers by setting employer fees justify

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<sup>166</sup> On the difficulties with manpower planning and forecasting of labour shortages, see for example Doudeijns and Dumont (2000); Richards and Amjad (1994).

and outweigh the costs associated with increased government intervention. This may be a difficult step for governments with a strong preference for a *laissez-faire* approach to governing, in tandem with minimal government intervention in the domestic economy. Second, there is a danger that some employers will illegally deduct work permit fees from migrant workers' wages. If this happens, the fees will achieve none of their intended objectives and will simply serve to reduce the wages of migrant workers. To prevent this, work permit fees need to be effectively enforced with credible and significant penalties for employers who pass the fees on to their workers. This obviously requires a significant investment in enforcement, which a government may or may not be willing to make. Finally, just like quotas, the setting of work permit fees requires a good understanding of the current demand for migrant labour in different industries. This requires continuous analysis and monitoring of labour market trends.

#### Laissez-faire admissions

Under a *laissez-faire* approach, the inflow of foreign workers is largely determined by native employers' demand for foreign workers and thus essentially becomes an 'unplanned aggregate of firmwise decisions' (Bhagwati, Schatz et al, 1984). Government intervention in regulating the annual inflows of migrant workers is minimal and mostly limited to operating a 'labour market test', a mechanism that aims to encourage employers to make serious efforts to fill existing vacancies with local workers before considering the employment of migrant workers.

The obvious advantage of such an approach is that it is very flexible in responding to employers' 'needs' for migrant labour. The major disadvantage is that, unless this 'need' is clearly defined and monitored, migrant worker admissions can quickly spiral out of control. Most importantly, a *laissez-faire* approach to managing labour immigration can only be effective if the government is confident that its labour market test – the only policy impacting on the size of migrant admissions under this admissions system – is highly effective. Unfortunately, the Irish and other countries' experiences with implementing a labour market test have shown that its design and effective implementation can create major difficulties. This is discussed below.

### Labour market tests

A labour market test is an integral part of the laissez-faire approach to managing the number of migrant workers admitted, but it may also be used to complement quotas and/or economically-oriented work permit fees. While labour market tests may take on a variety of forms, they generally involve elements of attestation by the employer and/or certification by the relevant authorities (usually municipal and/or federal labour market offices) regarding the unavailability of local workers.

One option – currently used in Ireland – is to impose a mandatory ‘waiting period’ before a work permit application can be made, during which the vacancy in question needs to be locally advertised. Permission to proceed with a work permit application is given only after it has been shown that no local workers are available to do the job. Whether and how this process works depends on the requirements about where (regional, national, or international level) and, especially, how to advertise the vacancy. With regard to the latter, a number of options are feasible:

- the vacancy can be advertised at any wage and working conditions, as long as they meet minimum national standards or collective wage agreements
- the vacancy needs to be advertised at the average wage (and working conditions) prevailing in that occupation and industry
- the vacancy needs to be advertised at a wage set by the government (which may or may not be determined by the average wage prevailing in that industry).

The second and third options obviously require continuous labour market monitoring. The rationale and effects of setting a minimum wage for migrant workers that is above the official minimum wage (option 3) is similar to that of economically-oriented work permit fees, except that the higher wages are directly accrued by workers whereas the work permit fees add to government revenues.

A complementary measure aimed at ensuring that the recruitment of migrant workers does not adversely affect local workers is the requirement that no local workers are laid off during a set period before and after the employment of a migrant. For example, to apply for a H-1B work permit, US employers need to submit a Labour Condition Application (LCA) to the Department of

Labour (DOL), attesting that: i) the employer will pay the migrant worker the higher of the actual wage paid to other workers similarly employed or the prevailing wage for the occupation in the vicinity; ii) the employer will provide working conditions for H1-B workers that will not adversely affect the working conditions of similarly situated US workers; iii) there is no strike or lockout in the course of a labour dispute involving the occupational classification at the place of employment; and iv) the employer has provided notice of the application to the workers' bargaining representative, or, if the facility is not unionised, has posted a notice in conspicuous locations at the place of employment. Until recently, 'H-1B dependent' employers (i.e. firms with more than a certain share of the workforce who are H-1Bs) needed to further attest that: v) no US workers are laid off for the three months before and the three months after hiring of the H-1B, and vi) significant efforts have been made to recruit US workers. If approved, the employer's attestation is certified by the Department of Labour.<sup>167</sup>

How well each of the above policy options work in practice critically depends on the incentives and institutional infrastructure put in place to implement – and enforce – the regulations of the labour market test. The worst-case scenario is one where both employers and local workers are actually not interested in engaging in an employment relationship. This could happen where employers have a pre-determined preference for employing migrant workers, and where local workers prefer to live off unemployment benefits rather than accept low-wage jobs. Clearly, without the right incentives and enforcement, any labour market test simply becomes a bureaucratic obstacle that serves neither employers nor local workers.

Where none of the preconditions for implementing a reasonably successful, economy-wide labour market test are met, alternative policies for protecting local workers' rights to preferential access to the local labour market need to be considered. One option would be to institute a *two-tier system*: in sectors or occupations which are verifiably known to suffer from shortages of local workers, some of the components of a labour market test (such as the requirement to actively search for local workers) could be waived;<sup>168</sup> the remaining

<sup>167</sup> See <http://workforcesecurity.doleta.gov/foreign/hiring.asp>.

<sup>168</sup> The requirement to offer wages and working conditions that correspond to – or exceed – the average wages and working conditions prevailing in that job category should, in the author's view, always be in place in order to protect the wage and employment conditions of local workers already employed in these jobs.

sectors/occupations would still be subject to a labour market test which could be more focused and therefore potentially more effective.

There are obviously problems with such a two-tier system. Most importantly, the system again depends on the state's ability to accurately assess the extent and nature of alleged labour shortages in the various occupations and sectors of the economy. One may also expect pressures from interest groups to add or remove certain job categories from the list of jobs for which part of the labour market test has been waived.

Which of the policy tools discussed above are most suitable for regulating the selection and admission of migrant workers in Ireland? The discussion has made clear that there is no 'best practice' or quick answer to this question. Each policy option comes with potential advantages and disadvantages. The extent to which the former outweigh the latter critically depends on the feasibility of implementation and enforcement of labour immigration and employment laws, as well as the capacity to monitor and/or forecast labour market developments, especially labour market shortages.

### *6.1.2 Introducing safeguards to protect migrant workers' rights*

In the absence of any systematic evidence on the employment conditions of migrant workers employed on work permits in Ireland, one cannot refute the claim made by NGOs and trade unions that the current system, of requiring migrants to work for the employer and in the job specified on the permit only, may give rise to violations of migrant workers' rights.<sup>169</sup>

There is thus a clear need to introduce special safeguards that protect migrant workers from violations of their rights. The primary policy tool for so doing is to introduce portable permits, thus granting migrant workers at least some freedom of movement in the Irish labour market. This would help protect migrant workers' rights by enabling them to more easily escape unsatisfactory working conditions than is currently the case. It would also bring the work permit system more in line with the work/visas

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<sup>169</sup> The DETE's argument that it does in fact regularly approve of migrant workers 'transferring' from one employer to another begs the question: why does the work permit application not explicitly mention a change of employers as a legal possibility?

authorisations scheme which issues permits that are valid for two years and portable within a certain occupational category. The need to achieve more coherence between these two schemes is particularly important if, as the government currently suggests, the objectives of the two programmes are to be rather similar, namely to attract skilled and specialised workers.

It is important to add that, in addition to better protecting migrant workers' rights and promoting policy coherence, facilitating some degree of portability of work permits is also likely to be in the interest of the Irish economy and local workers (including workers from the accession countries). Specifically, it would increase the efficiency of Ireland's labour market by enabling migrant workers to better respond to wage differentials, thereby helping to equalise the value of the marginal product of all workers across labour markets. Borjas (2001) argues that, 'immigration greases the wheels of the labour market by injecting into the economy a group of persons who are very responsive to regional differences in economic opportunities'. Efficiency gains may be particularly pronounced where the mobility of native workers is relatively low.

A related argument is that granting migrant workers some freedom of movement in the labour market discourages employers from developing a preference for employing migrant workers on work permits because they can be more readily exploited than EU nationals. This may be particularly important in supporting the government's encouragement of local employers to meet most of their foreign labour needs with workers from within the enlarged EU.

The remainder of this section discusses the policy options for achieving the (limited) portability of work permits, and for better protecting the rights of migrant workers through the enforcement of employment laws and the regulation of the private recruitment industry.

### Portability

It is important to recognise that complete and unlimited portability, across all occupations and sectors, could potentially undermine the alignment of the size and composition of economic immigration with the demand for migrant labour in Ireland. In addition it may also result in a substantially reduced propensity on the part of local employers to recruit migrant workers. This is mainly because

employers may be reluctant to recruit migrant workers who are free to leave the employer who recruited them before at least part of the employer's recruitment costs have been recovered.

The policy options discussed below thus aim to facilitate the portability of temporary work permits *within a defined job category and after a certain period of time*. Two immediate challenges are to define the job categories within which permits are to be portable, and to set the time period after which permits become portable.

One first and obvious principle for defining the job category(ies) within which permits are to be portable would be to exclude all jobs for which new applications for work permits would be rejected by the labour market test – either because a sufficient supply of local labour is thought to exist, or because the government has decided to prevent employers in certain sectors from increasing labour supply through immigration. A second general principle is to limit portability to jobs that require the same type and level of skills as those required by the job the migrant worker filled upon first entry into Ireland under the work permit system.<sup>170</sup> Again, the rationale is to keep the employment of migrant workers as closely aligned with the demands of the domestic labour market as possible.

The decision on the duration of the time period after which permits are to become portable requires a realistic assessment of the time needed for employers to recover at least part of their basic migrant worker recruitment costs. Arguably, this period is unlikely to exceed six months. It is important to note in this context that it may not be desirable for employers to be given a guarantee that they will be given the opportunity to recover *all* their migrant worker recruitment costs. The reason is that such a policy could significantly reduce employers' risks associated with hiring migrant workers relative to those associated with recruiting local workers (who may leave the employer anytime, i.e. also before the employers' investment in the workers have been recovered). This could, in turn, encourage employers to recruit migrant workers over local workers.

### Portability by application

The first and most 'minimalistic' policy option would be to create explicit legal possibilities for changing employers under Ireland's

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<sup>170</sup> This may be relatively straightforward for some jobs such as those that require specialised skills such as doctors, nurses, engineers, IT specialists and chefs.

current work permit system. For example the work permit form could explicitly state that a change of employer is legally permitted as long as the new employer makes a new application for a work permit (and provided that that application is approved). To make such a policy efficient, efforts could be made to inform and encourage migrant workers employed on work permits in Ireland about work permit vacancies notified with FÁS. In other words, if the local labour market test cannot identify suitable local workers to fill the advertised vacancy, there could be a second search for 'resident' migrant workers who are currently employed under the work permit system and wish to change jobs.

#### Portability without application

A second policy option would be to grant portability without requiring a new work permit application, but again only within certain sectors and/or occupations and after a certain period of time (e.g. six months or one year). Importantly, such a policy would need to be accompanied by measures that prevent employers from routinely replacing migrant workers whose work permits become portable with new migrant workers on new permits that do not allow a change of employers. This would obviously require a careful monitoring of the number and employer recipients of new work permits issued.

#### Enforcement of employment and recruitment laws

In order to effectively enforce Ireland's employment laws, the labour inspectorate needs to take a more active role in collecting and evaluating systematic evidence on the employment conditions of migrant workers. A first step would be to record and publish the nationality of the workers making complaints about employment conditions to the labour inspectorate. In addition, the activities of recruitment agencies need to be more actively monitored and regulated. Where intermediaries cannot be regulated directly (because they are outside the Irish jurisdiction), Ireland could engage sending countries in cooperating with the regulation of private recruiters.

#### *6.1.3 Creating incentives for return*

Despite the need for policies that facilitate the conditional change from temporary to secure permanent immigrant status (see the

discussion in section 6.2), work permit policies must necessarily remain based on a *general expectation of temporariness* of employment and stay of the majority of migrant workers who join the programme. To make this expectation realistic, policies must first of all aim to prevent a situation in which a foreign worker decides to overstay a temporary work permit because his/her savings target could not be achieved within the period of validity of the work permit. This requires strict enforcement against employers and recruiters who provide foreign workers with misleading information about employment conditions and living costs in Ireland in addition to steps to avoid the sale of visas at disproportionate cost.

Furthermore, it needs to be recognised that, following EU enlargement, the average travel and recruitment costs for migrant workers employed under Ireland's work permit system are likely to be substantially higher than was the case before EU enlargement (when accession state nationals accounted for a third of all migrant workers employed on work permits in Ireland). This makes it increasingly unlikely that migrant workers – especially those employed in occupations that do not pay high wages – will be able to generate the net financial gains necessary to make migration financially worthwhile, by taking up employment in Ireland for one year only.<sup>171</sup> There is thus a case for increasing the duration of new work permits and/or renewals to, for example, 2+2 years, or 1+2 years. This would be a relatively straightforward modification of current policies that can be introduced without changing/affecting any of the other aspects of the current work permit system.

A mixture of incentives and enforcement is needed to facilitate the return of migrant workers who exit the work permit system without changing status to a permanent programme (if it exists). For example migrant workers with a valid work permit need to be given the right and opportunity to travel freely – or at the least without excessive restrictions – between the sending and receiving countries. This will help them maintain networks in the home country, which in turn would increase the probability of their return to the said country.

Financial return incentives could include the transfer of migrant workers' social security payments to the workers' sending country. Another policy option is the creation of special savings accounts

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<sup>171</sup> This conjecture is supported by the relatively high work permit renewal rates of workers from outside the enlarged EU (see the discussion in chapter 2).

offering migrant workers the opportunity to save part of their wages at special high interest rates under the condition that the savings will only be released to migrant workers upon their return to their home countries. Such financial return incentives have been tried before, with mixed success. The most infamous example is the Mexican *Bracero* programme that required a portion of migrants' earnings to be deducted for retirement in Mexico. The policy ultimately failed because migrants never received the money and their claims for deferred wages have been under investigation for decades.

There also need to be clear and effective procedures for removing migrant workers who illegally overstay their temporary worker visas and, importantly, also for punishing employers who employ migrant workers without valid work permits. This is primarily a question of political will and depends on the resources made available to internal enforcement measures – detection, prosecution, enforcement of employer sanctions, and deportation. The record of most liberal and democratic receiving countries in enforcing employer sanctions is less than encouraging.<sup>172</sup>

#### *6.1.4 A postscript on the need to reform Ireland's work permit policies*

With the numbers of new work permits issued almost back to what they were in the late 1990s, there may be a temptation to consider the work permit system as an area of public policymaking that has been 'solved' or 'marginalised' by the government's decision to grant accession state nationals unrestricted access to the Irish labour market, and by the recent policy announcement that work permits will no longer be issued for employment in low-skill occupations. This would, however, be an unfortunate mistake.

Even if accession state nationals fill all labour shortages at the low-skill end of the Irish labour market, in the long term, the growth and structure of the economies of the accession countries are expected to converge to those of the fifteen member states of the pre-enlarged EU. This will make it more attractive for accession state nationals to stay in their home countries and thus decrease the supply of migrant workers expected to be available to Irish employers over the next few years. Therefore, there will ultimately again be a demand for non-EEA workers and for comprehensive policies that regulate their immigration and employment in Ireland.

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<sup>172</sup> Section 6.4 discusses enforcement issues in more detail.

## 6.2 Introducing a permanent immigration programme

Ireland does not currently have any permanent immigration programme that issues permanent residence and employment permits to migrants immediately upon their arrival. Furthermore, for those migrants already in Ireland on temporary employment permits, naturalisation – possibly after five years of residence – is currently the only effective way of securing permanent immigrant status. The lack of any permanent immigration programme that could be used for both ‘direct entry’ for newcomers, and for securing permanent residency status for migrant workers already employed on temporary work permits, is problematic for a number of reasons.

First, the acquisition of citizenship may require some migrant workers to give up citizenship rights in their countries of origin. This seems to be a rather high price to pay if the migrant’s primary purpose of naturalisation is simply the acquisition of permanent residence in Ireland.

Second, from Ireland’s point of view, the lack of a permanent immigration programme puts pressure on the naturalisation system which may be expected to shortly be dominated by applications for naturalisation by migrant workers employed on temporary work permits for five years.<sup>173</sup> It could also be argued that the lack of a permanent residence programme ‘devalues’ the meaning of naturalisation, which some migrant workers may simply view as the means of acquiring permanent residence in Ireland rather than as the significant process of identifying with a new country that it is intended to be.

Third, a permanent immigration programme is needed to ensure that Ireland’s work permit policies avoid the policy mistakes made by past guest worker programmes, particularly the assumption that migrant workers are essentially available on tap, i.e. that their numbers could be increased or decreased as a simple function of the economic needs of the receiving country. It needs to be recognised that some migrant workers entering Ireland under the work permit system may seek permission to remain in Ireland on a permanent basis. This means that there is a need for transparent mechanisms and rules for a *regulated* and *conditional* (i.e. *non-automatic*) transfer into different and ‘better’ programmes that grants *some* foreign workers secure permanent residence status.

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<sup>173</sup> As discussed in chapters 2 and 3 the number of work permits issued started to increase rapidly in 1999.

Fourth, the offer of a temporary employment permit with no opportunity to gain permanent residence other than through naturalisation may be a serious obstacle to attracting skilled and highly skilled workers to Ireland. In today's globalised labour markets for highly skilled workers, the conditions offered to such workers are known to be an important determinant in a migrant's choice of destination.

For these reasons there is a clear need for Ireland to introduce a permanent immigration programme that can be used for both direct entry and as a means of (conditional) switching from temporary to permanent residency status. The most common policy tool for instituting such a programme is a '*points system*' that evaluates applications for permanent residence based on migrants' individual characteristics rather than through the sponsorship of local employers (as is usually the case with temporary employment permit programmes). The best-known and longest established points systems are operated by Canada,<sup>174</sup> Australia<sup>175</sup> and New Zealand.<sup>176</sup>

For example, to be eligible for the acquisition of permanent residence under Canada's points system, applicants must: i) meet certain minimum work experience requirements, ii) prove that they have the funds required for settlement; and iii) earn enough points in six selection factors to meet the 'pass mark'. The six selection factors include education, language skills, experience, age, arranged employment in Canada and 'adaptability' (including previous work experience and/or study in Canada). It is clear that these factors have been chosen in order to maximise the probability that the admitted migrant workers will successfully integrate in Canada, both economically and socially.

A points system is generally thought to have a number of advantages over other policies that grant permanent residence on a case-by-case basis.<sup>177</sup> First, a points system is often viewed as a transparent way of regulating labour immigration. Most points tests are available online, enabling applicants to evaluate themselves based on a clear and known set of criteria. Second, a points system

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<sup>174</sup> For information about the Canadian points system, see <http://www.cic.gc.ca/english/skilled/qual-1.html>.

<sup>175</sup> For information about the Australian points system, see [http://www.immi.gov.au/migration/skilled/points\\_test.htm](http://www.immi.gov.au/migration/skilled/points_test.htm).

<sup>176</sup> For information about the points system in New Zealand, see [http://www.workpermit.com/new\\_zealand/employee.htm](http://www.workpermit.com/new_zealand/employee.htm).

<sup>177</sup> See the discussion in Papademetriou and O'Neill (2004).

may be attractive to the host population because it is clear and transparent in its emphasis of national economic interests in the regulation of labour immigration.

Third, and maybe most importantly, a points system is a relatively flexible tool for regulating admissions. The selection criteria, and/or the scoring system, may be changed through administrative measures. This enables relatively fast responses to changes in local labour market conditions or other considerations deemed important in the design of labour immigration policy.

Finally, it is worth re-emphasising that a points system is designed to regulate the acquisition of permanent residence only. Given the importance assigned to individual characteristics rather than to an offer of employment as the principle factor deciding eligibility, it is inherently unsuitable for regulating the selection and admission of migrant workers on a temporary basis. Consequently, a points system is meant to complement rather than replace temporary employment permit programmes.

### **6.3 Regulating the employment of foreign students**

The number of non-EEA nationals registered as students in Ireland increased dramatically from 11,000 in 2002 to over 20,000 in 2004. It is not known what share of non-EEA students work in Ireland, and whether they do so legally (i.e. within the legal limits of twenty hours per week during term time) or illegally. It is feasible that some non-EEA students may choose to work more than the legally allowed twenty hours per week. There is also anecdotal evidence that some English 'language schools' effectively operate as a front for the sale of visas to non-EEA nationals who wish to migrate and work in Ireland without going through the work permit system.

Given the significant numbers involved – the number of student visas issued now exceeds the number of new work permits issued – and the uncertainty about how many admitted students are working and for how many hours, there is a clear need for consideration to be given to safeguards that minimise the potential for abuse of this particular channel of immigration. The government's recent announcement that, as of April 2005, access to casual employment will be restricted to those students who are attending a full-time course of at least one year's duration is an important step. Of course, as always, the policy will only be effective if it is systematically enforced. Another potential policy

reform could include a more stringent system of *accrediting/licensing and monitoring teaching institutions*, especially English language schools.

At the same time, in an effort to compete with other high-income countries for ‘foreign talent’, there is clear scope for easing current regulations which make it difficult for students to acquire temporary employment permits after they have completed their studies in Ireland. Under the current system, students may acquire work visas/authorisations (in the sectors that are open to this scheme) in Ireland but not work permits (unless they first leave the country). This may create difficulties for students who wish to temporarily remain and work in Ireland immediately after they have completed their studies. It is also likely to create unnecessary costs for employers who wish to recruit non-national students immediately after their graduation in Ireland.

To remove these inefficiencies the work permit system could *consider applications for new work permits for resident non-nationals who have undertaken and just completed their studies in Ireland*. To prevent abuse, such a policy would need to be limited to students who have completed relatively long-term studies in Ireland (e.g. degree courses). To implement such a policy, non-national graduates could be included in the second stage of the work permit system’s labour market test (i.e. search for EEA nationals in the first instance, and non-EEA nationals who are either employed on work permits and wish to change employers or who have just completed long-term studies in Ireland in the second instance).

#### **6.4 Combating illegal immigration and illegal working**

The effectiveness of any labour immigration policy – including the policy options discussed above – ultimately depends on the enforcement of existing immigration and employment laws. Where illegal immigration and illegal working is treated with ‘benign indifference’, employers and workers may have little incentive to join existing programmes for legal immigration and employment.

An effective policy against illegal immigration and illegal working is likely to involve a combination of policy measures rather than a single ‘magic bullet’ policy. These policy measures could include: border control, internal enforcement measures – including detection, prosecution and the enforcement of employer sanctions – deportations, and regularisation programmes.

As discussed in chapter 2, Ireland appears to be in the process of making efforts to increase the effectiveness of existing border control measures. In addition, there has also been an increase in the number of deportations, although the majority are thought to involve failed asylum seekers rather than migrants found working illegally.

This section focuses on two key policy tools: employer sanctions, which have so far been enforced in a lacklustre manner; and regularisation programmes, which have not received much attention in the debate to-date.

#### 6.4.1 *Employer sanctions*

As discussed in chapter 2 there is currently no evidence to suggest that Ireland's employer sanctions are being effectively enforced. To-date only three employers have been convicted of violating the Employment Permits Act 2003. It needs to be added that Ireland is not alone in its reluctance to enforce employer sanctions. For example, between 1998-2002, only eight employers were found guilty of illegally employing migrant workers under Section 8 of the UK's Asylum and Immigration Act 1996, the law preventing illegal working in the UK (Home Office, 2003). Similarly, in 2002, only fifty-three employers were fined for immigration violations in the US (Cornelius, 2004).

The failure to effectively punish employers who illegally employ migrant workers is widely agreed to be one of the most important factors leading to illegal immigration and illegal working and, as a potential consequence, to the failure of labour immigration policies. This is because, in contrast to all other immigration control policies, employer sanctions serve the important purpose of addressing the *demand* for illegally employing migrant workers. Without policies that minimise demand, policies aimed at minimising supply (border control, deportations) are likely to be much less effective than they could be.<sup>178</sup>

There is thus a clear case for *increasing efforts to enforce Ireland's existing employer sanctions*. This is, of course, largely a question of resources, which in turn depend on the political will to enforce the law against employers. The implementation of effective employer sanctions requires policy makers to study and learn from the reasons for policy failures in other countries. Such reasons can

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<sup>178</sup> For a discussion of this argument in the case of the US, see Cornelius (2004).

include the spread of false documents, the rise of subcontractors and other middlemen who often help evade enforcement, insufficient enforcement budgets and insufficient co-operation between agencies.<sup>179</sup>

#### 6.4.2 Regularisation programmes

A regularisation programme facilitates the regularisation/legalisation of the residency and employment status of migrant workers who are currently illegally resident and employed. Regularisation programmes vary depending on the criteria used to determine who can qualify (e.g. 'earned regularisation programmes' for illegal migrant workers who can demonstrate that they fulfil a set of criteria set by the government), and on the type of residency status granted (e.g. temporary or permanent).

From the migrant-receiving country's point of view, the advantages of regularisation programmes include opportunities for better immigration and labour market management, the generation of increased tax revenues, and wider benefits from having a better knowledge about the characteristics and employment of non-national residents. The recent concern about the potential impact of immigration, especially of illegal immigration, on national security has re-emphasised the need for better information on non-national residents.

The major critique of regularisation programmes is that – unless they can be effectively and credibly implemented as one-off policies – they are likely to encourage even further illegal inflows or illegal working. A second argument against such programmes is that they effectively 'reward' migrant workers who have circumvented existing labour immigration policies. This argument carries more weight in countries that operate fairly liberal labour immigration policies that allow for the legal entry and employment of workers with a wide range of skill levels (as has, until recently, been the case in Ireland).

A significant number of countries have carried out regularisation programmes including, for example, Spain, Italy, Greece, the US and France. The conclusions of evaluations of these programmes have been mixed.<sup>180</sup> Spain, for example, has repeatedly reneged on

<sup>179</sup> See Martin and Miller (2000).

<sup>180</sup> MPI (2004) and OECD (2003) give useful overviews and evaluations of major regularisation programmes in various countries.

its pledge to carry out ‘one last regularisation programme’, only to announce afterwards that it was in fact the ‘second last’ such programme. In Greece’s regularisations in the late 1990s and early 2000s, it has been estimated that as many as 40 per cent of regularised migrants failed to leave employment in the informal sector (MPI, 2004).

In the absence of systematic or even strong anecdotal evidence about the likely scale of illegal immigration and illegal working, it would at this point be premature to recommend a regularisation programme in Ireland. It is, however, a policy measure that needs to be kept in mind when discussing the government’s overall policy approach to combating illegal immigration and illegal working.

### **6.5 The role of research in the debate and design of labour immigration policy**

Of course none of the policy options suggested above can be effectively implemented without a conducive political environment and a coherent institutional framework. The discussion of the Irish ‘politics of labour immigration’ has been outside the scope of this paper. Nevertheless, the flurry of recent policy announcements – such as the new regulations on the employment of non-EEA students announced in late 2004 and the creation of the Irish Naturalisation and Immigration Service (INIS) announced in early 2005<sup>181</sup> – may be interpreted to suggest that the government recognises the need to address some of the inefficiencies, and close some of the policy gaps, in Ireland’s current systems for managing the immigration and employment of non-EU nationals.

As this paper has demonstrated there is an important and so far largely neglected role for research in the ongoing debate and design of labour immigration policies in Ireland. At the risk of stating the obvious, it is worth emphasising three major contributions that research can make to policy-making on economic immigration.

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<sup>181</sup> In March 2005, the Irish government announced the establishment of the Irish Naturalisation and Immigration Service (INIS) – a new executive office within the Department of Justice, Equality and Law Reform (DJELR). According to the DJELR, INIS will provide ‘a single contact point or “one stop shop” for applications for entry to the State – combining the current work permit and visa application processes’ (see press release by the Department of Justice, Equality and Law Reform, 1 March 2005). At the time of writing, it remains unclear whether the creation of INIS will actually lead to any substantive policy changes on economic immigration.

First, theoretical research can help to conceptualise and structure what is sometimes a very confused debate, separating normative issues and discussions (e.g. what *should be* the principles and policy objectives?) from positive ones (e.g. what *are* the impacts of labour immigration on the Irish economy?). Second, research is necessary to generate evidence on the impacts of labour migration to Ireland, on policy experiences of other countries and on the values and ethical considerations that may be invoked in the choice of policy principles and objectives. Finally, policy research may help policymakers in using all the available evidence to identify and make an informed decision on the various policy options.

All types of migration research described above – on concepts, impacts, and policy choices – remain seriously underdeveloped in Ireland. There is thus an urgent need for more research to rectify this situation. This paper is meant to be a first step in that direction.

## Appendix

- Table A1: Total population and average annual natural increase and estimated net migration for each intercensal period, 1871-2002
- Table A2: Emigration, immigration and net-migration flows by nationality, 1987-2004
- Table A3: Usually resident population by place of birth, 1991, 1996 and 2002
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- Table A5: New PPS numbers issued to accession state nationals in May-December 2004, by nationality of recipients
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- Table A7: Asylum seekers and recognised refugees in Ireland, 1995-2004
- Table A8: Persons aged 15 years and over in the labour force, classified by broad occupational group and nationality, 2002
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*Table A1: Total population and average annual natural increase and estimated net migration for each intercensal period, 1871-2002*

	Population in last year	Average annual natural increase	Average annual change in population	Average annual net-migration
Thousands				
1871-1881	3,870	32	-18	-50
1881-1891	3,469	20	-40	-60
1891-1901	3,222	15	-25	-40
1901-1911	3,140	18	-8	-26
1911-1926	2,972	16	-11	-27
1926-36	2,968	16	-0.4	-17
1936-46	2,955	17	-1	-19
1946-1951	2,961	26	1	-24
1951-1956	2,898	27	-12	-39
1956-1961	2,818	26	-16	-42
1961-1966	2,884	29	13	-16
1966-1971	2,978	30	19	-11
1971-1979	3,368	35	49	14
1979-1981	3,443	40	38	-3
1981-1986	3,541	34	19	-14
1986-1991	3,526	24	-3	-27
1991-1996	3,626	18	20	2
1996-2002	3,917	23	49	26

*Sources:* Commission on Emigration, Reports 1954; and CSO 2004 (Census Results 2002)

Table A2: Emigration, immigration and net-migration flows by nationality, 1987-2004

	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Total Inflows	17.2	19.2	26.7	33.3	33.3	40.7	34.7	30.1	31.2	39.2	44.5	46.0	48.9	52.6	59.0	66.9	50.5	50.1
Irish inflows	11.1	11.5	18.1	21.6	22.6	25.5	20.0	16.8	17.6	17.7	20.8	24.3	26.7	24.8	26.3	27.0	17.5	16.9
% of total inflow	64.5	59.9	67.8	64.9	67.9	62.7	57.6	55.8	56.4	45.2	46.7	52.8	54.6	47.1	44.6	40.4	34.7	33.7
Non-Irish inflows	6.1	7.7	8.6	11.7	10.7	15.2	14.7	13.3	13.6	21.5	23.7	21.7	22.2	27.8	32.7	39.9	33.0	33.2
UK	2.8	3.7	4.1	4.6	5.5	6.4	6.2	6.3	5.8	8.3	8.4	8.6	8.2	8.4	9.0	7.4	6.9	5.9
% of total inflow	16.3	19.3	15.4	13.8	16.5	15.7	17.9	20.9	18.6	21.2	18.9	18.7	16.8	16.0	15.3	11.1	13.7	11.8
% of non-Irish inflow	45.9	48.1	47.7	39.3	51.4	42.1	42.2	47.4	42.6	38.6	35.4	39.6	36.9	30.2	27.5	18.5	20.9	17.8
Rest of EU	1.0	1.2	1.7	2.6	2.0	4.1	3.3	3.3	3.2	5.0	5.5	6.1	6.9	8.2	6.5	8.1	6.9	10.6
% of total inflow	5.8	6.3	6.4	7.8	6.0	10.1	9.5	11.0	10.3	12.8	12.4	13.3	14.1	15.6	11.0	12.1	13.7	21.2
% of non-Irish inflow	16.4	15.6	19.8	22.2	18.7	27.0	22.4	24.8	23.5	23.3	23.2	28.1	31.1	29.5	19.9	20.3	20.9	31.9
Non-EU	2.4	2.9	2.8	4.6	3.2	4.7	5.1	3.7	4.6	8.2	9.7	7.0	7.0	11.1	17.3	24.4	19.3	16.7
% of total inflow	14.0	15.1	10.5	13.8	9.6	11.5	14.7	12.3	14.7	20.9	21.8	15.2	14.3	21.1	29.3	36.5	38.2	33.3
% of non-Irish inflow	39.3	37.7	32.6	39.3	29.9	30.9	34.7	27.8	33.8	38.1	40.9	32.3	31.5	39.9	52.9	61.2	58.5	50.3
USA	0.9	1.3	0.6	1.3	1.1	1.7	2.5	2.0	1.5	4.0	4.2	2.3	2.5	2.5	3.7	2.7	1.6	1.8
% of total inflow	5.2	6.8	2.2	3.9	3.3	4.2	7.2	6.6	4.8	10.2	9.4	5.0	5.1	4.8	6.3	4.0	3.2	3.6
% of non-Irish inflow	14.8	16.9	7.0	11.1	10.3	11.2	17.0	15.0	11.0	18.6	17.7	10.6	11.3	9.0	11.3	6.8	4.8	5.4
Rest of World	1.5	1.6	2.2	3.3	2.1	3.0	2.6	1.7	3.1	4.2	5.5	4.7	4.5	8.6	13.6	21.7	17.7	14.9
% of total inflow	8.7	8.3	8.2	9.9	6.3	7.4	7.5	5.6	9.9	10.7	12.4	10.2	9.2	16.3	23.1	32.4	35.0	29.7
% of non-Irish inflow	24.6	20.8	25.6	28.2	19.6	19.7	17.7	12.8	22.8	19.5	23.2	21.7	20.3	30.9	41.6	54.4	53.6	44.9
Total emigration	40.2	61.1	70.6	56.3	35.3	33.4	35.1	34.8	33.1	31.2	25.3	28.6	31.5	26.6	26.2	25.6	20.7	18.5
Total net migration	-23	-41.9	-43.9	-23	-2	7.3	-0.4	-4.7	-1.9	8	19.2	17.4	17.3	26	32.8	41.3	29.8	31.6

Sources: CSO, Population and Migration Estimates, various issues (latest April 2004; and April 2003, with revisions for 1997-2002)

*Table A2 (continued): Emigration, immigration and net-migration flows by nationality, 1987-2004*

	1987-1989	1990-1992	1993-1995	1996-1998	1999-2001	2002-2004
Total Inflows	63.1	107.3	96.0	129.7	160.5	167.5
Irish inflows	40.7	69.7	54.4	62.8	77.8	61.4
% of total inflow	64.5	65.0	56.7	48.4	48.5	36.7
Non-Irish inflows	22.4	37.6	41.6	66.9	82.7	106.1
UK	10.6	16.5	18.3	25.3	25.6	20.2
% of total inflow	16.8	15.4	19.1	19.5	16.0	12.1
% of non-Irish inflow	47.3	43.9	44.0	37.8	31.0	19.0
Rest of EU	3.9	8.7	9.8	16.6	21.6	25.6
% of total inflow	6.2	8.1	10.2	12.8	13.5	15.3
% of non-Irish inflow	17.4	23.1	23.6	24.8	26.1	24.1
Non-EU	8.1	12.5	13.4	24.9	35.4	60.4
% of total inflow	12.8	11.6	14.0	19.2	22.1	36.1
% of non-Irish inflow	36.2	33.2	32.2	37.2	42.8	56.9
USA	2.8	4.1	6.0	10.5	8.7	6.1
% of total inflow	4.4	3.8	6.3	8.1	5.4	3.6
% of non-Irish inflow	12.5	10.9	14.4	15.7	10.5	5.7
Rest of World	5.3	8.4	7.4	14.4	26.7	54.3
% of total inflow	8.4	7.8	7.7	11.1	16.6	32.4
% of non-Irish inflow	23.7	22.3	17.8	21.5	32.3	51.2
Total emigration	171.9	125.0	103.0	85.1	84.3	64.8
Total net migration	-108.8	-17.7	-7	44.6	76.2	102.7

Sources: CSO, Population and Migration Estimates, various issues (latest: April 2004; and April 2003, with revisions for 1997-2002)

*Table A3: Usually resident population by place of birth, 1991, 1996 and 2002 (percentage)*

	1991 %	1996 %	2002 %	number
Ireland	93.9	93.0	89.6	3,458,479
Outside Ireland	6.1	7.0	10.4	400,016
Northern Ireland	1.0	1.1	1.3	49,928
Great Britain	3.8	4.2	5.1	198,587
Other EU	0.4	0.5	0.9	32,801
Outside EU	1.0	1.1	3.1	118,700
USA	0.4	0.4	0.6	21,541
Other countries	0.6	0.7	2.5	97,159
Total	100.0	100.0	100.0	3,858,495

Source: CSO, Census 2002, principal demographic results

*Table A4: Usually resident population by main nationality group and sex, 2002*

	Persons Thousands	Males	Females	Persons %	Males	Females
Irish	3,535.7	1,754.7	1,781.0	89.6	89.4	89.8
Dual Irish/other	49.3	23.9	25.4	1.2	1.2	1.3
UK	103.5	50.7	52.8	2.6	2.6	2.7
Other EU	30.0	14.0	16.0	0.8	0.7	0.8
Non-EU	88.5	46.8	41.6	2.2	2.4	2.1
Rest of Europe	23.1	12.9	10.2	0.6	0.7	0.5
Africa	21.0	11.0	9.9	0.5	0.6	0.5
Asia	21.8	12.0	9.8	0.6	0.6	0.5
USA	11.4	5.2	6.2	0.3	0.3	0.3
Other countries	11.2	5.7	5.5	0.3	0.3	0.3
Multiple nationality	2.3	1.1	1.2	0.1	0.1	0.1
No nationality	0.8	0.5	0.4	0.0	0.0	0.0
Not stated	48.4	24.6	23.9	1.2	1.3	1.2
Total	3,947.0	1,963.1	1,983.9	100.0	100.0	100.0

Source: CSO 2003 (Census 2002)

Table A5: New PPS numbers issued to accession state nationals in May-December 2004, by nationality of recipients

	May-04	Jun-04	Jul-04	Aug-04	Sep-04	Oct-04	Nov-04	Dec-04	May-Dec04
Poland	3,510	3,045	4,853	2,786	2,972	4,195	2,716	1,145	25,222
Lithuania	1,905	1,537	1,553	1,216	1,525	1,875	1,213	586	11,410
Latvia	975	667	764	655	719	862	758	369	5,769
Slovakia	551	802	841	422	508	767	378	244	4,513
Czech Republic	503	415	567	254	373	536	281	132	3,061
Hungary	264	198	237	166	233	327	227	101	1,753
Estonia	312	179	224	140	178	217	313	74	1,637
Malta	33	17	14	5	17	17	15	12	130
Slovenia	9	11	9	2	7	17	6	3	64
Cyprus	6	3	1	4	3	4	1	1	23
All accession state nationals	8,068	6,874	9,063	5,650	6,535	8,817	5,908	2,667	53,582

Source: Department of Social and Family Affairs

*Table A6: Work permit applications by type, 1999-2004*

	1999	2000	2001	2002	2003	2004
Total issued	5,750	17,833	36,756	40,504	47,707	34,067
New permits <sup>1</sup>	4,036	15,335	29,491	23,207	22,050	10,020
Renewals	1,448	2,201	6,919	16,861	25,110	23,246
Share in total issued	25.1%	12.3%	18.8%	41.6%	52.6%	68.2%
Renewal rate <sup>2</sup>		38.3%	38.8%	45.9%	62.0%	48.7%
Group permit	266	297	346	436	547	801
Total refused	247	381	769	1,285	2,229	1,486
Refusal rate <sup>3</sup>	4.1%	2.1%	2.0%	3.1%	4.5%	4.2%

Sources: Work permits database, DETE

Notes:

<sup>1</sup> The figures for 'new permits' also include small numbers of 'transfers', i.e. changes of employers by migrant workers already employed on work permits (about 2,000-3,000 per year in recent years).

<sup>2</sup> The renewal rate is defined as the share of renewals in period t in the total number of permits issued in period t-1. Note that the decline in the overall renewal rate in 2004 reflects the removal of employment restrictions for accession state nationals rather than a decline in the renewal rate of workers from outside the enlarged EU.

<sup>3</sup> The refusal rate is defined as the share of refused applications in the total number of applications.

*Table A7: Asylum seekers and recognised refugees in Ireland, 1995-2004*

	Applications for asylum	Recognised as refugees in first instance	on appeal
1995	424	15	0
1996	1,179	36	0
1997	3,883	209	4
1998	4,626	128	40
1999	7,724	166	351
2000	10,938	211	394
2001	10,325	458	480
2002	11,634	893	1099
2003	7,900	345	833
2004	4,766	430	702

Sources: Department of Justice, Equality and Law Reform and ORAC; Dublin

Table A8: Persons aged 15 years and over in the labour force, classified by broad occupational group and nationality, 2002

	Total in labour force	Looking for first regular job	All occupations	Farming, fishing and forestry	Manu- facturing	Building and construction	Clerical, managing and government	Communi- cation and transport	Sales and commerce	Prof., techn., and health	Services	Other workers (incl. not stated)
Total	1,800,933	21,147	1,779,786	96,279	225,020	136,698	318,565	102,444	239,915	293,794	170,578	196,493
Total Irish	1,632,108	17,479	1,614,629	92,528	208,285	127,563	295,690	96,203	220,990	261,998	150,375	160,997
Non-Irish	150,480	3,385	147,095	3,103	15,451	8,274	21,743	5,713	17,872	30,844	19,231	24,864
EU	89,223	1,154	88,069	1,444	8,746	5,858	15,953	4,033	12,239	18,008	10,439	11,349
Non-EU	59,766	2,213	57,553	1,652	6,612	2,356	5,494	1,636	5,414	12,403	8,607	13,379
Rest of Europe	19,258	711	18,547	1,284	3,769	1,147	953	708	1,374	1,705	2,686	4,921
Romania	3,001	223	2,778	35	339	204	91	162	145	211	404	1,187
Russia	2,194	67	2,127	137	424	105	137	72	139	322	266	525
Poland	2,115	71	2,044	45	554	210	105	83	140	189	246	472
Lithuania	2,218	71	2,147	234	520	138	73	100	167	70	383	462
Latvia	2,218	33	2,185	462	443	155	37	72	128	47	247	594
Ukraine	1,215	51	1,164	187	257	82	31	33	57	119	108	290
Czech Republic	1,077	15	1,062	25	389	23	49	29	65	88	185	209
Other	5,220	180	5,040	159	843	230	430	157	533	659	847	1,182

Table A8: Persons aged 15 years and over in the labour force, classified by broad occupational group and nationality, 2002  
contd.

	Total in labour force	Looking for first regular job	All occupations	Occupational group										Other workers (incl. not stated)
				Farming, fishing and forestry	Manu- facturing	Building and construction	Clerical, managing and government	Communi- cation and transport	Sales and commerce	Prof., techn., and health	Services			
Africa	10,913	809	10,104	62	730	277	883	252	939	2,040	1,165	3,756		
Asia	13,228	480	12,748	82	679	161	570	275	849	4,611	3,281	2,240		
China	2,236	144	2,092	14	42	33	94	30	200	110	909	660		
Philippines	4,171	69	4,102	1	255	41	77	120	110	2,209	816	473		
Pakistan	1,387	63	1,324	5	118	7	37	16	121	638	196	186		
India	1,697	69	1,628	1	89	36	61	40	86	947	207	161		
Malaysia	1,017	17	1,000	0	9	7	59	9	139	200	453	124		
Other	2,720	118	2,602	61	166	37	242	60	193	507	700	636		
America	9,915	125	9,790	84	1,002	341	1,822	243	1,338	2,541	836	1,583		
Australia	3,610	31	3,579	39	190	202	784	68	588	1,002	372	334		
New Zealand	1,648	15	1,633	64	108	158	389	51	236	377	120	130		
Other nationalities	1,194	42	1,152	37	134	70	93	39	90	127	147	415		
Multi Nationality	1,491	18	1,473	7	93	60	296	44	219	433	185	136		
No Nationality	340	17	323	34	39	32	14	14	27	22	31	110		
Not Stated	18,005	266	17,739	614	1,245	829	1,118	514	1,026	930	941	10,522		

Source: CSO, Census (2002)

Table A9: Occupational sectors ineligible for work permits since April 2003

- 
- **Clerical and administrative**
  - **General labourers and builders** including: ~~fish processing/filleting (removed in August 2003); and plasterers (removed in August 2003)~~
  - **Operators and production staff**
  - **Sales staff** including: retail sales; sales representatives; and management/supervisory/specialist sales
  - **Transport staff** Include.: drivers – bus, coach, car, taxi, fork lift, ~~HGV and articulated vehicle drivers (removed in August 2003)~~
  - **Childcare workers** including: nursery; child minders; and nannies
  - **Hotel tourism and catering** including: reception staff and barpersons
  - **Craft workers** including ~~aircraft mechanics (removed in August 2003);~~ bookbinders; bricklayers; cabinet makers; carpenters/joiners; carton makers; fitters at construction plants; electricians; instrumentation craftpersons; fitters; tilers – floor/wall; mechanics – heavy vehicles; metal fabricators, mechanics – motor; ~~I.T. workers – network administration (removed in Jan 2004);~~ originators; painters and decorators; plumbers; printers; engineers – refrigeration; sheet metal workers; tool makers; vehicle body repairers; machinists – wood.
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Sources: FÁS and Department of Enterprise, Trade and Employment

Table A10: Average pay per week (€) offered to work permit holders by economic sector and occupation, 2002 \*

	Agriculture		Industry	Total Services	Sub-sectors in services						Total
	Mean	Valid N			Catering	Domestic	Education	Entertainment	Medical & Nursing	Other Services	
Managers and administrators	558.72	16	728.49	545.12	358.00	413.46	635.97	490.97	594.10	634.00	555.72
			47	771	243	1	19	5	14	489	834
Professional occupations	601.17	8	757.68	943.66	344.13	200.00	772.16	530.85	1,178.82	787.90	933.07
			105	1,990	14	1	316	3	825	831	2,103
Associate professional and technical occupations	316.52	21	713.93	1,063.93	235.00	505.87	633.46	2,439.17	891.97	780.72	1,032.68
			114	1,644	33	2	55	272	370	912	1,779
Clerical and secretarial occupations	265.34	4	330.68	412.08	299.55	304.00	373.74	835.55	375.52	453.42	405.82
			30	450	108	2	12	4	29	295	484
Craft and related occupations	297.51	626	366.32	359.20	309.24	238.54	.	339.67	259.55	363.48	351.44
			826	2,768	197	3		2	7	2,559	4,220
Personal and protective service occupations	270.43	54	298.00	383.80	341.81	252.75	322.72	277.50	736.73	319.33	8,464
			48	8,362	5,285	691	83	4	1,117	1,182	382.59

Table A10: Average pay per week (€) offered to work permit holders by economic sector and occupation, 2002\* contd.

	Agriculture		Industry	Total Services	Sub-sectors in services					Total	
	Mean	Valid N			Catering	Domestic	Education	Entertainment	Medical & Nursing		Other Services
Sales occupations	265.38	9	319.35	304.02	268.67	.	.	415.11	284.27	307.36	304.20
			34	904	79			1	3	821	947
Plant and machinery operatives	293.80	129	349.35	406.65	296.89	244.00	.	276.20	.	410.56	384.44
			348	1,076	32	1		3		1,040	1,553
Other occupations	286.49	4,956	327.66	361.81	422.06	254.38	304.29	661.68	430.36	320.15	336.16
			1,359	10,049	3,568	41	48	111	187	6,094	16,364
Total	288.93	5,823	377.78	456.36	369.90	253.74	631.90	1,845.24	872.98	404.16	423.61
			2,911	28,014	9,559	742	533	405	2,552	14,223	36,748

Source: Work permits database, Department of Enterprise, Trade and Employment; see Ruhs (2003b)

\* Information about the occupations of work permit holders has been systematically entered into the database since February 2002.



Table A13: Foreign worker levies and dependency ceilings in Singapore, 1980-2001

	MARINE			MANUFACTURING			CONSTRUCTION			DOMESTIC SERVICES			
	skilled workers levy (\$ per month)	unskilled ceiling levy (\$ per month)	dependency workers (% share of foreigners)	skilled workers levy (\$ per month)	unskilled below ceiling (\$ per month)	workers above ceiling (\$ per month)	dependency ceiling (% share of foreigners)	skilled workers levy (\$ per month)	unskilled workers levy (\$ per month)	dependency ceiling (% share of foreigners)	unskilled workers levy (\$ per month)	dependency ceiling (% share of foreigners)	levy (all workers) (\$ per month)
1980								230*					
1981								230*					
1982	30% of monthly wage (>\$150)	30% of monthly wage (>\$150)	-	30% of monthly wage (>\$150)	30% of monthly wage (>\$150)	-	-	30% of monthly wage (>\$150)	30% of monthly wage (>\$150)	-	30% of monthly wage (>\$150)	-	-
1983													
1984	200		-	200		-	-	200		-		-	120
1985			-			-	-			-		-	
1986	350		-	350		-	-	350		-		-	
1987	140		50%	140		-	50%	140		50%		50%	
1988	170			170		-	50%	170		50%			120
1989	250		40%	250		-	40%	250		40%		50%	160
1990	300			300		-	40%	300					250
1991	250	350		300		-		250	350			66%	250
1992	250	350	66%	250	300	450	35%-45%	250	400			83%	300
1993	200	385		200				200	440				330
1994	200		75%	200	300	450	35%-45%	200					330

Table A13: Foreign worker levies and dependency ceilings in Singapore, 1980-2001 contd.

	MARINE			MANUFACTURING			CONSTRUCTION			DOMESTIC SERVICES	
	skilled workers levy (\$ per month)	unskilled ceiling levy (\$ per month)	dependency workers (% share of foreigners)	skilled workers levy (\$ per month)	unskilled below ceiling (\$ per month)	workers above ceiling (\$ per month)	skilled workers levy (\$ per month)	dependency ceiling (% share of foreigners)	unskilled workers levy (\$ per month)	dependency ceiling (% share of foreigners)	levy (all workers) (\$ per month)
1995	200			200			200	75%	440	75%	330
1996	200			200			200		200		330
1997	200			200	300	450	200	35%-45%	440	83%	330
1998	100	385	75%	100	330	400	100	40%-50%	470	83%	345
1999	30	295	75%	30	240	310	30	40%-50%	470	83%	345

Notes: \* non-Malaysian foreign workers only.

Sources: www.gov.sg/mom; Table taken from Ruhs 2003a

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