

POLICYBRIEF



SIRIUS

Skills and Integration of Migrants,
Refugees and Asylum Applicants
in European Labour Markets

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LABOUR MARKETS, POST-2014 MIGRANTS AND REFUGEES IN EUROPE: EVIDENCE AND THOUGHTS FOR BETTER INTEGRATION

INTRODUCTION

The capacity for labour market opportunities to ensure the economic and social 'inclusion' of people within society holds true for host populations as well as migrants, refugees and asylum applicants (from this point on, unless specified, we shall use the acronym MRAAs). Regardless of one's migrant or native status (by native we mean people residing in their country of birth and nationality), employment provides income, social identity, social connections, and it enables individuals to contribute to the growth and prosperity of the country through consumption and taxation.

However, the integration of MRAAs via labour markets is not a straightforward task, due to the specific issues relating to migration and refugee/asylum statuses, but also due to the extent of heterogeneity apparent across contemporary labour markets in Europe. This heterogeneity (in economic structure, sectorial composition, labour force and demographic features, etc.), combined with the substantial, but also uneven, impact of the wider economic crisis on European labour markets, has created a highly differentiated economic and social environment across countries.

Building on such premises, SIRIUS understands the labour market integration of migrants, asylum seekers and refugees as being dependent on a pattern of concurring circumstances and features located at different analytical levels: at the macro (state, sub-state and supra-state), at the meso (intra-societal), and at the micro (individual) levels.

In this policy brief we present evidence and policy considerations about the 'macro' dimensions of integration by assessing how far legal and institutional frameworks of migration and asylum as well as labour law work as enablers or obstructors of post-2014 MRAAs integration in European labour markets across the seven countries studied in SIRIUS (the Czech Republic, Denmark, Finland, Greece, Italy, the United Kingdom and Switzerland). We focus on post-2014 MRAs given the peak in migration and asylum figures Europe has experienced in 2015 and 2016.

The findings of this policy brief are based on the comparative analysis (1) of the political, legal and institutional context of migration governance, integrated with critical insights on the cultural and socio-economic environment of the SIRIUS countries, and (2) of the different legal status, rights, and entitlements of migrants, refugees and asylum applicants in the SIRIUS countries. Overall, when legal issues are at stake, MRAAs integration heavily depends from the country they settle in and from the legal status that is recognized to them. In fact, entry and settlement in European countries is subject to strict limitations to non-EU nationals, but such limitations take different shades according to a given European country and a given migrant status. The comparative analysis of their right to be legally recognised a status (and subsequently a permit to stay) in SIRIUS countries on the one hand, and to have a number of other rights stemming from their status -first of all the right to work and the right to do it as nationals do- on the other, speaks of the legal marginalization of MRAAs in European jurisdictions, despite narratives of inclusiveness.

The comparative analysis has delivered four main findings as regards **barriers** to labour market integration:

- The first finding consists in the deep unevenness among SIRIUS countries as regards MRAAs related legislation and their rights and entitlements in the policy-domain of labour. On the one hand, this is obvious and legitimate: there is no proper Europeanization of asylum policy and law, and immigration and asylum remain one of those domains in which states are reluctant to devolve their authority to supranational jurisdictions. On the other hand, this lack of homogeneity among countries makes it difficult for people, both foreign workers and employers, to understand who has the right to do what, when, how and where in Europe. Moreover, legal unevenness favours secondary movements, i.e. MRAAs moving from one host country to another in search for better life and working conditions. In sum, the lack of homogeneity among EU member states about the rights associated to specific categories of migrants constitutes a barrier for MRAAs integration in labour markets and societies, even though sometimes it may create comparative advantages for determined people or categories of people in given situations.
- The second result pertains the complexity of the legal frameworks. In all SIRIUS countries, the legal framework on migration and asylum is extremely difficult to navigate. This is mainly the result of a complex and rapidly changing legislation and of an institutional landscape scattered in a multiplicity of actors at different levels of government (from supranational to local). Moreover, in most countries the acts of primary legislation only provide for the general framework, but immigration issues are de facto regulated by a congeries of secondary legislation (by-laws, regulations, ministerial circulars, administrative rules, etc...). Such complexity does not simply make the legal framework more muddled, but it reduces the level of democratic control over migration legislation. In fact, secondary acts are rarely subjected to Parliamentary debate. This fragmentation is further exacerbated by the multiplicity of entities involved in the “multilevel” and subsidiary-based management of migration flows. All tiers of government (from the national to the local) are involved with different, often overlapping, competences in Denmark, Finland, Italy, the UK and Switzerland. In addition, the management of migration often involves other relevant actors, such as the third sector (as it is the case in Denmark, Finland, Italy, the UK, for example) and private companies (as it happens in the UK), the Courts and also EU and UN agencies, as it is the case for Greece. Given the fact that adequate mechanisms of coordination often lack, this multiplicity of actors ends up undermining the uniformity of practices and often results in substandard services and uncertain rights.
- The third finding relates to the narrowing of the access to both international protection and legal entry for working reasons in SIRIUS countries. This is pursued through physical restrictions (migrant pushbacks –either at the borders as all SIRIUS countries experienced or at the sea – as it is the case in Italy and Greece-; increasing borders securisation and border controls - best exemplifies by the Swiss case-; physical conditions on application lodging –for example since 2002 asylum seekers can only lodge an application on Danish soil), and, less blatantly but more

widely and effectively, through procedural restrictions that take the form of reforms of both international protection procedures (hotspots, “safe third countries”, admissibility test; accelerated asylum procedures; border procedures, suppression of levels of guarantees), and the reduction of working permits and foreign workers’ quota.

- Fourthly, despite the differences among countries, in all SIRIUS countries we can see the creation of a hierarchy in terms of access to rights and therefore in terms of capacity and opportunity of integration. Refugees and, to a smaller extent, beneficiaries of subsidiary protection and long-term economic migrants are at the top of the hierarchy, endowed with the broader and stronger sets of rights, including those related to accessing the labour market, workers’ rights and benefits. At the bottom of the hierarchy we find irregular migrants, and just above them, asylum seekers, both categories of migrants with the most restrictive access to rights and entitlements allowing them entering an integration path. Asylum applicants experience time limitations in accessing employment, except in Greece, where they are allowed to as soon as they lodge their asylum application.

Next, the main findings concerning the **enablers** of MRAAs integration are:

- The vivid intervention of NGOs attempts to close the many loopholes of the reception system, which fails to adequately meet the asylum applicants’ needs of protection. The NGOs’ activities encompass the provision of essential goods and basic services, such as emergency healthcare, legal advice and support toward integration, including training and language classes.
- Courts often take part to the management of migration. Judges have been proved crucial, in the large majority of SIRIUS countries, on the one hand, to grant remedies to those whose rights have been violated and, on the other hand, to provide sound interpretation of legal provisions. In Italy, the UK, Czech Republic and Finland, for example, the Constitutional/Supreme Courts have represented a fundamental anchor in promoting the legal entitlements of foreigners and in preventing standards downgrading.
- Regional and international obligations are still enablers for refugees and beneficiaries of subsidiary protection, despite the narrowing of the access to international protection, as they provide for a robust legal basis to claim for rights and the respect of the rule of law in all migration/asylum proceedings. All SIRIUS countries are signatories of the 1951 Geneva Convention, some signed already in 1952 as Denmark, others only in 1993 as the Czech Republic (after the post-cold war transition), and all of them are bounded also by the 1967 Protocol, whereas only some of them are bound by the recast Common European Asylum System. Switzerland, even though not obliged to do so, decided to participate to the European Asylum Support Office (EASO) in March 2014 (with the agreement coming into effect on 1 March 2016). Furthermore, all the EU SIRIUS countries are bound by the EU *acquis* aimed at the creation of a Common European Asylum System, with the exception of the UK. Finally, most of the SIRIUS countries, such as Denmark, Finland and Italy have incorporated the European Convention of Human Rights, together with its principle of protection against torture or inhuman or degrading treatments (art. 3 ECHR), in their Constitutions, which should offer a shelter to all migrants, and not solely to people escaping from persecution.
- Legal statuses play a crucial role in enabling people to become full members of the host societies and to contribute to the overall well-being of those societies through, among others, a full participation into national labour markets. Refugees, beneficiaries of subsidiary protection and long-term economic migrants are those that go closer to nationals concerning fundamental rights (except political rights that fall beyond the field of analysis of SIRIUS research) and integration into labour markets. Moreover, the legal status may allow refugees, beneficiaries of subsidiary protection and long-term economic migrants to benefit from further important opportunities of integration (language courses, vocational training) that are neglected to other types of migrants, strengthening their chances to join the labour market.

Finally, results show that there are five key fields related to the **concrete enforcement of the right to work**, which should be taken into account for understanding legal barriers and enablers for MRAAs integration in the labour market:

- The acquisition of language skills is the field that all SIRIUS jurisdictions acknowledge as first step to integration into the host society. Nonetheless, not everywhere language courses are offered for free - this is one of the field where larger space is left for the collaboration with non-state entities, both non-profit and for profit companies. More interestingly, attending language courses is rarely a duty. No duty exists in the Czech Republic, Greece, Switzerland (except for short time economic migrants in those cantons where signing an integration convention is required to access social assistance), and in the UK.
- The recognition of qualifications and competences is crucial to work as nationals do, yet the majority of SIRIUS countries lag behind what substantial equality would entail in this field. Just Denmark, Switzerland and Italy (with the exception of asylum seekers) are open to the recognition of foreign titles and qualifications –even though in Italy the recognition process may be long and complex, substantially jeopardising legitimate expectations of migrants. The UK recognises exclusively qualifications from selected countries of origin, on the basis of a common table of conversion. In the Czech Republic and in Greece the formal equalisation of qualifications is substantially undermined by the requirement of the official certificates issued by competent authorities. In between lies Finland, where not diplomas but proof of citizenship is required, as to allow for fair conversions. Noticeably, in all countries where this is allowed, MRAAs have to specifically apply for the recognition, in the most favourable of cases, as in Finland, this is done during the application process.
- Vocational education and training are a relevant component of current active labour market policies, useful to facilitate migrants, refugees and asylum applicants' integration in their host societies. The offer of vocational training opportunities to foreigners vary across SIRIUS countries, depending on the foreigner's legal status. In Greece and Finland all migrants, except undocumented people, can access vocational training as Greek and Finnish citizens do. In Italy and in Switzerland in addition to undocumented migrant, asylum applicants too may be prevented from using vocational training either because there are no courses available in the reception centres (Italian case), or because the courses' length exceeds the temporary permit to stay asylum applicants receive. In Denmark, only refugees, beneficiaries of subsidiary protection and of temporary protection status (the Danish national form of temporary protection) are entitled to vocational training, from which economic migrants are excluded. Whereas in the UK, even though not formally entitled to by specific legal provisions, vocational training is open to refugees, beneficiaries of subsidiary protection and of the British forms of national temporary protection; by contrast, asylum applicants are excluded from it, but not in Scotland, where sub-national legislation opens the door of vocational training also to asylum applicants. Economic migrants may benefit from these measures, but with limits due to their type of visa. Finally, in the Czech Republic neither asylum applicants nor short term economic migrants nor beneficiaries of national forms of temporary protection can access vocational training, that is open to refugees, beneficiaries of subsidiary protection and long-term economic migrants, who, in case of unemployment, can participate in the retraining schemes available to nationals.
- Unemployment benefits are another important element for understanding legal barriers and enablers for MRAAs' integration in the labour market. Switzerland and Italy are the countries that present less restrictions in accessing unemployment benefits: all are entitled as nationals do, except undocumented migrants and asylum applicants not allowed to work in Switzerland. In Denmark, only refugees and long-term economic migrants holding a permanent residency permit can receive unemployment benefits. In Finland unemployment benefits are made conditional upon permanent residency in Finland, which excludes asylum applicants and short-time economic migrants, in Greece refugees, beneficiaries of subsidiary protection and long-term economic migrants can access the Unemployment register and receive all benefits and services as Greek citizens do, whereas asylum seekers can do so only after having completed the application procedure. Not very different the situation in the UK, where refugees and beneficiaries of subsidiary and national temporary protections are equalised to British citizens, but long term economic migrants must be granted the indefinite leave to remain in the UK. Similarly, in the Czech Republic solely refugees, beneficiaries of subsidiary protection and long-term economic migrants are entitled to.
- The right to self-employment and to work in the public sector is the fifth field which is related to the concrete enforcement of the right to work. Except in Greece, where the public sector is fully

reserved to nationals only, in all jurisdictions refugees can both work as public officers (with exceptions as some apex or extremely delicate positions may be reserved to nationals) and as self-employers, and the same applies to long-term economic migrants. The strongest restrictions exist for asylum applicants and short-term economic migrants, which may be explained by the precariousness of the status for the formers and by the time element for the latter.

POLICY IMPLICATIONS AND RECOMMENDATIONS

Building upon the aforementioned main findings the most relevant policy implications are:

- Given that the lack of homogeneity among EU Member States about the rights associated to specific categories of migrants constitutes a barrier for the labour market integration of MRAAs, additional efforts are required from the EU and its Member States at better harmonizing and coordinating respective countries' asylum and immigration policies and laws. More informed, evidence-based and coordinated cross-European asylum and immigration policies could also tackle irregular work and manage secondary movements (intra-EU movement of MRAAs).
- Complexity of national legal frameworks on migration and asylum should be reduced, in order to avoid multiple, fragmentary normative stratification, which jeopardises internal consistency and effectiveness, as well as rules' predictability and certainty. Furthermore, immigration issues should be regulated mainly through primary legislation, which is subject to the democratic control of Parliaments, and not through secondary legislation.
- Collaboration between the public and the private sector, especially NGOs and non-profit associations, should be encouraged, when such collaboration is well coordinated and when the private sector is complementary with the public sector, rather than replacing it.
- The necessary control of EU external borders and the right of each country to control the influx of non-EU foreigners should go hand in hand with the effective guarantee of fundamental human rights and policies that actually favour legal immigration also for economic reasons, with a realistic planning of working permits and foreign workers' quota based on the actual needs of each country's labour market, rather than on stereotypes. Asylum and international protection should not be the -almost- sole channel to enter legally EU countries. Too restrictive policies on working permits risk to favour illegal immigration or to improperly burden the asylum system.
- Widening the access to refugee and beneficiary of subsidiary protection statuses or enlarging rights and benefits connected with other statuses would multiply the enabling effect of a legal status easing integration of foreign workers. It would also avoid the creation of a migrant winner-looser divide, which would be at odds with any human rights, and solidarity-based understanding of what a modern society should be.
- Lowering the barriers that prevent MRAAs to work as nationals do (improving language skills, recognizing skills and qualifications, providing vocational training and education, granting unemployment benefits, the right to self-employment and to work in the public sector) would release important energies and capacities that could positively contribute to host societies economic growth, social well-being and peaceful coexistence.

RESEARCH PARAMETERS

The main objective of this stage of the SIRIUS project was to assess how far legal frameworks of migration and asylum work as enablers or obstructors of non-EU migrants, refugees and asylum applicants' (MRAAs) integration in European labour markets across the seven countries studied in SIRIUS (the Czech Republic, Denmark, Finland, Greece, Italy, Switzerland, and the United Kingdom). To fulfil such a main objective, the work has been organised in three principal streams of

activities: (1) gathering and critically analysing information on the political, legal and institutional context of migration governance, and illustrating national cases through country reports, and the EU framework legislation in the EU report; (2) comparing the national case-studies and discussing the outcome in a comparative report; and (3) retrieving and systematizing a number of indicators available in the most relevant databases in order to create an ad hoc dataset on socio-economic, cultural, political and legal indicators on migration covering all SIRIUS countries.

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FURTHER READING	<p>WP1 Report – Labour Market Barriers and Enablers – Comparative report on the position of post-2014 migrants, refugees and asylum seekers in the labour market (available on https://www.sirius-project.eu/publications)</p> <p>WP2 Report – Legal Barriers and Enablers – Comparative report on the legal, institutional and socio-cultural analysis (available on https://www.sirius-project.eu/publications)</p>