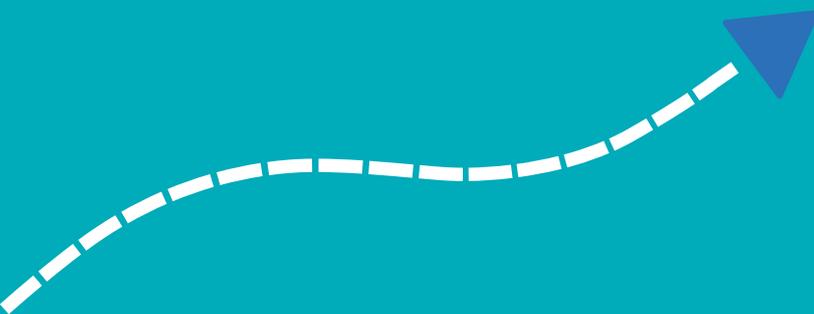


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4. MIGRATION POLICY: WHY AND HOW DO COUNTRIES REGULATE MIGRATION?

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In this chapter, we will discuss why countries regulate migration. In order to achieve their objectives, countries often have to manage completely opposite processes at the same time: simultaneously limit migration and attract those whom the country needs. How are countries doing this and how well are they managing it?

Migration policy is a set of objectives, rules and actions that public authorities, sometimes in cooperation with NGOs or the private sector, implement to manage migration. When people hear the words "migration" and "policy", an image of politicians arguing, making promises to voters or criticising their opponents might come to mind. Politicians are indeed involved in shaping migration policy but, here we mainly focus on the substance of migration policies: rules and regulations that are used to steer migration in one direction or another.

The key questions for migration policy are: who do we want here, how many and for what purpose? Should migration be restricted at all? Recently policymakers around the world are tending to answer this question in the affirmative. However, the questions of who, how many and for what are extremely topical.

Types of migration

Migration can be divided into four major categories based on purpose: labour and business migration, student migration, family migration and forced migration, where people escape from conflict or persecution. **Chapter 7** focuses on refugees and asylum seekers; therefore, we will now concentrate on regulations and the goals of other types of migration.

Labour migration

Most often, migration policy focuses on economic objectives. For example, there may be a labour shortage in a country. Labour shortages can be general or structural. A general labour shortage means that more workers are needed than there are people who are able to work in the country. Structural labour shortages mean that there is a shortage of people with the right qualifications for a particular job, or that locals no longer want to do certain jobs themselves. The latter are often known as the 3D jobs: work that is dirty, dangerous and demeaning. In that case, the aim of migration policy is to find people to do these jobs from abroad.

Skilled migrants

However, sometimes migration is not seen as the solution to a problem, but rather as an opportunity to gain an advantage over others. What if we could attract the brightest minds and entrepreneurs to the country? Then there would be jobs for everyone, the economy would grow and the state's revenues would increase, which in turn could benefit the society as a whole. To this end, various talent attraction and retention measures are developed. The key question at the heart of these policies is: who is a talent? A talent is not just a gifted person, but rather a highly skilled professional and/or entrepreneur who don't just master complex tasks, but whose jobs can create jobs also for others. For instance, a highly skilled programmer is vital for establishing a start-up company that can create hundreds of jobs in the future. Or a designer that establishes starts running a successful fashion brand. Or a civil engineer thanks to whom dozens of local builders find work with higher added value.

Attracting such talents is a separate challenge. In a situation where all the developed economies of the world are competing for talents, a country has to come up with something that will make them more attractive than others. It can be anything from generous residence permit conditions, a stimulating environment, high wages, a great reputation to a good environment for starting a business. The attractiveness of countries for global talent is measured using the [Global Talent Competitiveness Index](#), for example.

Student migration

Student migration means a situation whereby a foreign national arrives in a country to study – for example, to study for a university degree or learn a trade in a vocational school. Sometimes they might arrive an exchange students to study at a school or university for a shorter period of time, or just take for a language course – this is often referred to as learning mobility. There are many reasons why countries favour that type of migration. Student migration is often seen as an extension of talent migration – today's talented student is tomorrow's highly qualified worker! In addition, during their studies, the person already adapts to the society of the destination country and is therefore also better integrated. Many countries engage in efforts to attract talented students – for example, advertising the curricula or the country as a destination in general, and/or offering free study opportunities or considerable scholarships. On the other hand, efforts are also made to retain international alumni, such as by organising career fairs to integrate students smoothly into the labour market, allowing them to look for work or start a business after graduation, or permitting them to return more easily in the future compared to other migrants.

Student migration can also serve a completely different purpose. Offering higher education to international students can also be a profitable business. Universities may offer degree programmes to international students also in fields where there is no labour shortage in the host country, for a fee. Income from international student fees is another source of revenue for the universities, which can be used to provide better education to its students or carry out high-level research that the society of the host country needs. Likewise, for an international student, a diploma from a prestigious university and a good level of education with experience of living abroad can be a good starting platform after returning to their home country or for launching an international career. In addition, an international alumnus who has had a positive experience in the host country during their studies also remains a kind of goodwill ambassador or business card for the host country. Perhaps he/she has established contacts during his/her studies, which will ensure necessary business ties or even diplomatic contacts in the future.

Family migration

Family migration refers to people who migrate due to new or established family ties with the host country's citizen or a foreign national already living there. For example, a family migrant is a foreign national who comes to Estonia to marry an Estonian citizen, or the children of a foreign national who come to Estonia because their parent has migrated to Estonia for work. Countries primarily allow family migration on humanitarian grounds – the right to family life is already enshrined in the Universal Declaration of Human Rights. However, sometimes the possibility to easily migrate together with one's family is also a bonus to attracting highly qualified migrants.

At the same time, national rules vary considerably, e.g., when a family can reunite with a family member who migrated earlier, whether it can be done immediately or only if the migrant is already settled. Countries also have different rules as to who is considered a family member – in some countries, family reunification rights are reserved only to the closest family members such as a spouse and children, in others also to extended family members, for example, to the parents of an adult migrant or their adult siblings.

Methods of migration regulation

Thus, states must manage different migration flows simultaneously, and simultaneously bear in mind the specific national needs and objectives as well as the particularities of migration processes, which were discussed in **Chapter 3**. Figuratively speaking, a country is like a land developer or irrigator who by constructing dams and drainage ditches hopes to divert water in such a way that one place has sufficient water and other places are not flooded, at the same time building a water pipeline to supply residents with drinking water with much better quality ...

Taking all these considerations into account, states are developing different migration schemes with surgical precision – different migration groups are differentiated and, if necessary, categories fall under different rules. For example, the United States has created dozens of statuses for people who want to go there. Navigating between different schemes can be quite difficult, but it gives the state more leverage. For example, when the labour needs of a sector change, there is no need to redesign the whole system or deal with associated effects.

States also have different levers to limit migration. To put it simply, we can distinguish between the quota method that is state-centric; the labour market control method that focuses on the employer; and the points method that is migrant-centric.

Quota method

The simplest immigration capping measure is a quota – it means setting a specific limit for a certain type of visa. For example, we decide that our quota is one hundred supermodels a year, and to the one hundred and first supermodel we politely say that no more are needed, please try again next year.

On the other hand, of course, it can be argued that there is no one right number, as it all depends on demand. For example, it could happen that only ten supermodels are needed in a given year, but

then several reputable fashion houses expand and suddenly 150 new models are needed. The solution here is either a more flexible quota method – for example, the state sets a new quota every year based on labour market needs – or a labour market control method.

Labour market control method

The labour market control method does not set a numerical quota but allows all foreign nationals for whom there is a demand in the labour market to enter.

How we assess the needs of the labour market is a separate question. If we rely only on the fact that a person has an employment contract, it may happen that a foreign worker, who is ready to work upon terms that are more favourable for the employer than a local, will be preferred. In many countries, this is solved by a method called the labour market needs test: a worker can only be brought in from abroad if a suitable candidate cannot be found in-country. The labour market test can be utilised, for example, by an unemployment fund: an entrepreneur who wants to bring in a worker from abroad must first ask the unemployment fund if they have any suitable candidates who are already residing in the country.

Salary criteria

Another fear associated with labour migration is that cheap foreign labour will suddenly drive down local wages. To avoid this, it is possible to establish wage criteria: for example, a wage minimum that foreign migrants may be paid. The wage criterion is used in both quota and labour market control systems. For example, an employer may need to pay to a foreign worker at least the average salary of the sector. Of course, the salary criteria can also create a paradoxical situation whereby a foreign national receives a higher salary than locals working in the same company. However, we could look at the big picture and ask whether the company's work processes and pricing policy are optimal. Sometimes, the situation can be justified: the foreign national might be able to add more value either through their skills, productivity or simply by maintaining the production process and preserving local jobs.

Points method

Some countries, such as Australia and Canada, use a third system: the points-based method. (In some countries, the points-based method is used only for certain categories of migrants, such as in the context of talent migration.) The points method does not seek to determine how many super-models are needed at present but instead lets everyone in who could have the potential to advance the life and economy of the destination country. Each criterion that is considered important is allotted points and a threshold is set. Points may be awarded to a person wishing to immigrate based on their language skills, education, profession and work experience. For example, if you are a data analyst with a PhD, you get enough points in the education and specialisation categories to pass the threshold. You do not need anything else – the borders are open for you. However, if you only have a vocational degree, then you need to be proficient in the local language and have an employment contract with a local company to earn enough points to pass the threshold.

Countries apply different rules to different migration groups, and it can also happen that a country uses different methods for different groups. For example, there is a quota for workers in certain sectors, some residence permits can be applied for through the points-based system and others are based on the labour market control method. And sometimes these two layers are applied simultaneously: a points-based system exists but there is a cap on the number of people receive a residence permit based on it; or there is a quota system, where the precondition of fulfilling the quota conditions is a labour market needs test, as in Estonia (more about this in detail in **chapter 5**). If the points-based system is used, the labour market sector where the person wants to enter often plays a role so, in this way, it is similar to the labour market control method.

How long can you stay in the country?

Another question that countries have to decide on in regard to migration is how long a migrant can stay in the country. Some countries, such as [Canada](#) and [Australia](#), allow some highly qualified professionals or migrants who want to move to sparsely populated states to apply for a lifetime residence permit upon arrival. Others, such as [European Union](#) member states, usually issue a temporary residence permit for up to five years, which can be renewed later if the foreign national wants to stay longer and he/she is still needed in the labour market.

Seasonal employment

Sometimes, short-term migration or circular migration is preferred for certain migration groups. For instance, most EU countries allow non-EU or third-country nationals to enter the EU for seasonal work for six to nine months after which they have to return to their home country. After a few months, they are eligible return to work again in EU countries. The purpose of this scheme is to allow labour to be brought in from abroad to sectors such as agriculture or tourism, where a large amount of relatively low-skilled labour is needed during certain high seasons. The seasonal work scheme seeks to prevent unskilled migrants from settling permanently with their families in a place where the sector's relatively low wages would condemn them to poverty risk. At the same time, working in a country with higher wages may allow them to earn a sufficient amount of money during the season to return home for the remaining months and even improve their standard of living in their country of origin, and by doing so stimulate their local economy. Thus, seasonal work can be even be considered as sort of a development cooperation tool.

Migration policy as a failed policy?

Most developed countries have the following policies in place in parallel:

a labour migration policy to cover certain labour market needs, which can also be a channel for permanent immigration in the long run

short-term labour migration or circular migration policy to cover the need for unskilled seasonal work, which usually does not lead to permanent immigration

talent migration policy, which seeks to attract highly skilled and highly paid top specialists and entrepreneurs – who often enjoy more lenient immigration rules and have good prospects to settle more permanently

student migration, which may be aimed at attracting students as future talents to study and later to settle in the country, or at exporting higher education, i.e., students are invited to come to the country for studying and after graduation they have to leave

family migration policy, which defines whether a labour or study migrant can bring along their family members for a short or long period of time

an asylum policy that sets out the conditions under which the people whose life in their home country has become untenable for some reason may remain in the host country.

One can argue that everything covered in this chapter is perfect only on paper. Migration researchers sometimes say that there is no other sectoral policy that fails as often as migration policy. A country may have very specific goals that their migration policy seeks to achieve, as well as very smart measures to ensure that only the people they want arrive and not the ones they don't want, but, as has been said, it is quite difficult to work as a land developer or irrigator, with some areas to drain and some areas to irrigate, while also trying to build a drinking water system. It can easily happen that a person who seems to perfectly fit the description of the desired talent on paper is a non-cooperative sociopath in real life, who ultimately does not fit into any collective. It can happen that a person will only work for the company that hired them until their permanent residence permit is approved, after which he or she will rely on unemployment benefits. Or a student we see as a recipient of higher education export is not really interested in obtaining a diploma and returning home, but sees student migration as a window of opportunity to become a low-skilled labour migrant and escape conflict in their country of origin. There are also cases where attempts are made to take advantage of the family migration system by entering into sham marriages. It can also happen that a country spends a lot of money to advertise itself as an attractive destination for top professionals but highly skilled or entrepreneurial migrants are not interested in migrating to that particular country.

Thus, migration policy is a set of goals that seek to facilitate or restrict migration and regulations that seek to achieve those goals, but it also has to account for the logic of migration processes, human intelligence and thousands of other details that still need to be taken into account when running the system.

Discussion points

- You are a policymaker in your country and you have been approached by IT entrepreneurs who complain that they are no longer able to expand their businesses because there are not enough IT professionals in the country. The options on the table are to facilitate the immigration of IT professionals or to move some of the high-paying jobs to branches in other countries. What are the pros and cons of each option for your country? What migration policy would you design to address the concerns of IT entrepreneurs and why?
- Discuss the benefits or disadvantages of a liberal student migration policy for a country. What do you think would be the optimal student migration policy?

Further reading

The Estonian Human Development Report published in 2017 includes chapters on migration policy and migration in general: www.2017.inimareng.ee/en/

The European Migration Network monitors the developments of the migration policy of both Estonia and other European Union member states. www.emn.ee

How attractive is Estonia or any other country to global talents and why (not)? You can find the answers in the Global Talent Competitiveness Index: <https://www.insead.edu/global-indices>



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