



A Brief Overview of Labor Migration Policies in the United States

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On behalf of the U.S. Helsinki Commission, I am deeply honored to join you today for this important opportunity to improve Mediterranean collaboration on productive labor migration policies. The U.S. Helsinki Commission is a unique entity among participating states of the OSCE in that it was created in 1976 by the United States Congress as an independent commission of the U.S. Government. The Commission is charged with monitoring U.S. and OSCE member state compliance with the Helsinki Final Act and other OSCE commitments. Thus, the Commission has a significant interest in supporting the efforts of Mediterranean Partners of the OSCE in working towards all objectives of OSCE participation.

To contribute one case in point to the specific dialogue of labor migration in the Mediterranean, I will share with you a brief overview of labor migration policies in the United States. I must however, preface this contribution by emphasizing that I do not speak for the United States Congress or the U.S. Helsinki Commission in its entirety, but rather my own experiences as an aide to U.S. Representative Alcee L. Hastings, Chairman of the U.S. Helsinki Commission and OSCE Parliamentary Assembly Special Representative on Mediterranean Affairs. In achieving this end, I will principally discuss migration trends, our current bureaucratic structure for regulating labor migration, key labor migration admission mechanisms, and current policy concerns.

In 2001, nonimmigrant or temporary visas issued abroad peaked at 7.6 million. However, as one might expect after the terrorist attacks of September 11, 2001, the U.S. formulated more stringent visa issuance policies which placed a greater burden of qualification upon non-immigrant visa applicants. This caused non-immigrant visas issued abroad to decline significantly to 4.9 million in 2003. However, these rates have begun to increase once again with technological advances that have increased the accuracy of visa issuance and enforcement.

Another primary migration consideration in the U.S. is irregular migration. The Community Population Survey of 2005 estimated that 11.1 million unauthorized aliens were residing in the United States that year. Mexico remains the largest source country for unauthorized immigration. According to the Pew Hispanic Center, the unauthorized Mexican population in the U.S. stood at about 6.2 million in 2005, comprising 56 % of the unauthorized alien population. Another important characteristic of the estimated unauthorized alien population is that approximately 31% to 57% result from non-immigrant overstay. Of an average of 1.8 million immigrants a year, an estimated 500,000 are the result of irregular or unauthorized migration.

To manage the current migration trends, functions of what was previously known as the Immigration and Naturalization Service became specialized in the functions of three entities within the <http://www.csce.gov>

Department of Homeland Security (DHS). These entities were formed to better adapt to U.S. migration management needs in a post-September 11th world. These entities include U.S. Citizenship and Immigration Services (USCIS) charged with approving immigrant petitions, U.S. Customs and Border Protection (USCBP) charged with inspecting all people who enter the U.S., and the Bureau of Immigration and Customs Enforcement (ICE) tasked with internal enforcement of legal immigration status. While these entities manage the mechanics of migration irregular migration has continued.

Recent migration trends have prompted the U.S. to develop more proactive mechanisms to regularize migration. The U.S. has modernized tracking mechanisms for issuing non-immigrant visas and labor migration. Such initiatives include the United States Visitor and Immigrant Status Indicator Technology Program (US-VISIT) and improved development of the Consular Consolidated Database (CCD). Records of all visa applications are now more thoroughly monitored and documented including photographs and finger prints of all applicants. This system also links with other databases to flag problems that may impact the issuance of the visa. As required by law, finger prints and photos with a visa are an integral part of the entry-exit system of US-VISIT allowing visas to be more accurately matched when the individual arrives in the United States.

There are a number of visa classes for various forms of temporary labor, but there is an ongoing pressure in the United States to increase the number of unskilled temporary migrant workers. Thus, the U.S. currently has two main programs for temporarily importing low-skilled workers: the H-2A visa program and the H-2B visa program. Agricultural guest workers enter through the H-2A visa program, and other guest workers enter through the H-2B visa program. Both programs are administered by a partnership of offices at the U.S. Department of Labor (DOL) and the Department of Homeland Security. Employers interested in importing workers under either program must first apply to DOL for certification that U.S. workers capable of performing the work are not available and that the employment of alien workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. Both visa programs also require the person not to stay more than three consecutive years.

The primary differences between the programs are the mechanisms for social cohesion and limits. For temporary agricultural workers of the H-2A program, employers must provide workers with housing, transportation, and other benefits, including workers' compensation insurance. No health insurance coverage is required. The number of these visas does not have limits and have steadily increased to 37,149 H-2A visas issued in 2006. For temporary non-agricultural workers in the H-2B program, employers are not required to provide the same benefits that promote social cohesion. Also, H-2B visas are capped at 66,000 annually. However, recent legal adjustments have shifted policies toward not recounting returning H-2B workers and increasing the number of visas issued.

A key limitation of the H-2B visa concerns the requirement that the work be temporary for a one-time occurrence, seasonal need, peak-load need, or intermittent need. According to DOL data on H-2B labor certifications, top H-2B occupations in recent years included landscape laborer, forestry worker, maid and housekeeping cleaner, and construction worker. Unfortunate implications of the top H-2B occupations are prevailing social perceptions that these are primarily unauthorized immigrant occupations. This is exacerbated by the number of unauthorized immigrants serving in these occupations, making it difficult for average citizens to distinguish legal and illegal laborers. With these concerns in mind, the H-2B program has been a focus of legislative action as a likely mechanism to reduce irregular labor migration in the United States and provide more effective social cohesion for migrant workers. Incremental revisions to other specific temporary visa categories, the development

of a large scale guest worker program to manage future labor migration as well as the labor of unauthorized immigrants, and improvements to the US-VISIT program are among key policy options currently being explored. These policy options have emerged because of increasing political tension over unauthorized immigration.

Unfortunately, the result of increased political tension over irregular migration is diminished social cohesion and xenophobia. The U.S. has consistently promoted a strong civil society sector to provide informal support for migrant workers. However, even this capacity has been exceeded by increasing concerns over irregular migration. Thus, the United States will need to work together with other countries that share parallel labor migration concerns to find the best policy options for effective labor migration. True success will only come from options that emphasize cooperative mechanisms for tracking labor migration and incentives to stimulate positive circular migration with countries of origin. It is my opinion that there are hopeful prospects for such initiatives with the continued international dialogue prompted by events such as the launch of the Mediterranean edition of the Handbook on Establishing Effective Labor Migration Policies. The Commissioners and staff of the U.S. Helsinki Commission look forward to future events that will prompt further dialogue and further clarify effective labor migration practices.