

Preamble

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According to the European Commission, the number of migrants from non-EU Member States is around 20.2 million, representing about 4 per cent of the Union's population.¹ This is a significant figure which reflects the increased diversity of European society.

At a time of economic instability and difficulty in many European countries, however, there is a risk that public attitudes towards third-country nationals may be negatively affected, making their integration in the European Union more difficult. Cuts in services, such as integration programmes including language training, as well as higher unemployment generally, may reduce the opportunities for migrants and refugees to be socio-economically self-sufficient. Public views of migrants and refugees may be shaped by this perceived or actual lack of participation in or contribution to the host society.

The European Commission, in the 2011 'European Agenda for the Integration of Third Country Nationals',² emphasises the need for a positive attitude towards diversity, based on strong guarantees for fundamental rights and fair treatment as well as the mutual respect of different cultures and traditions. It also recommends strengthened efforts to combat discrimination and to give migrants instruments to become acquainted with the fundamental values of the EU and its Member States. Thus, sound strategies and dialogue between host societies and third-country nationals could tackle xenophobia, meaning fear of the foreign, where it

* The views expressed are purely personal and do not necessarily reflect the views of the European Commission, the UNHCR and the FRA.

¹ Figure from the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'A European Agenda for the Integration of Third-Country Nationals', 20 July 2011, COM(2011) 455.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 20 July 2011, COM(2011) 455 final.

emerges. Racism and prejudice, by contrast, require clear responses and strong leadership to communicate messages in favour of tolerance and cohesion. These basic elements are crucial in shaping public perceptions and fostering positive integration measures.

EU immigration policy aims to ensure non-discrimination and integration of third-country nationals. In recent years, the EU legal framework has been reinforced by the legally binding status of the Charter of Fundamental Rights, acquired through the entry into force of the Treaty on the Functioning of the European Union (also known as the 'Lisbon Treaty'). The Charter applies both to EU citizens and third-country nationals. Its Title III addresses the principle of equality, and Article 21(1) states that:

any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.

Among secondary legislation, the recently adopted Single Permit Directive (2011/98/EU) defines a common set of rights to legally residing third-country national workers based on equal treatment with nationals of that Member State.

The integration of third-country nationals remains a key policy priority for the EU, with equality one important component. Although the Union does not possess legal competence to adopt binding legal measures on integration,³ it has in recent years developed a framework for EU cooperation through *inter alia* the exchange of experiences, policy coordination, monitoring of results and financial support via the European Integration Fund and the European Refugee Fund. Member States have also confirmed their commitment to further developing the idea of integration as a 'driver for economic development and social cohesion, in order to better enhance migrants' contribution to economic growth and cultural richness.'⁴

³ Article 79(4) of the Treaty of the Functioning of the EU, permits the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, to establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.

⁴ Conclusions of the Council and the Representatives of the Governments of the Member States on Integration as a Driver for Development and Social Cohesion, Council document 9248/10.

While there is no unified understanding of what integration means or entails in the EU, it is generally accepted that integration is a dynamic, two-way process of mutual accommodation by migrants and by the societies that receive them.⁵ It includes cultural, legal and socio-economic aspects. Moreover, its potential benefits, both for receiving societies and for third-country nationals themselves, are widely acknowledged. This view is shared by the United Nations High Commissioner for Refugees (UNHCR), whose Executive Committee has defined integration as a ‘dynamic and multi-faceted, two-way process leading to full and equal membership in society’.⁶

In order to harness these positive outcomes, it is important to analyse what has worked well to date, and what potential obstacles to effective integration remain to be addressed in the EU. This book thus comes at a timely moment, when its insights can help contribute to analysis of the progress that has been made, but also the further steps which remain to be taken. It focuses on the interplay between equality and integration and explores, in particular, the nexus between non-discrimination based on nationality and race, and the equality clauses covering different categories of third-country nationals within EU Law.

The work touches on a range of major aspects of integration of third-country nationals in the EU today, including engagement in the labour market – through work for others or self-employment – the rights of family members present in the Union; family reunification, the role of language skills; distinctions between different forms of legal status, and the impact of first reception conditions. Various chapters examine the situations concerning these issues for different EU Member States, providing an important empirical basis for further reflection.

Although partially tackled by the Single Permit Directive, the divergence of rights between different categories of third-country nationals has a significant impact on integration. The Fundamental Rights Agency of the European Union (FRA) believes that the integration of third-country nationals is affected by the level of rights accorded to an individual, which in turn depends on his or her legal status. The more stable the residence of a category of persons in the host country is expected to be, the broader is the set of rights that category enjoys. Whereas asylum-seekers are provided only with minimal rights to ensure their survival, long-term residents are given rights which are commensurate to those of EU nationals. Students,

⁵ Common Basic Principles for Immigrant Integration Policy in the European Union, Council document 14615/04, 19 November 2004.

⁶ EXCOM Conclusion No. 104 (LVI) – 2005.

researchers, persons joining their family members, highly qualified migrant workers, refugees and subsidiary protection beneficiaries all have specific rights attached to their status.

This book stems from the ESF workshop entitled 'In/equality for Third Country Nationals: Implementation and Effects of EU Directives on Migration and Asylum' held in Oxford on 28–30 June 2010, at which keynote speeches were given by representatives of the European Commission, FRA and UNHCR. Following their support, this book aims to increase the awareness, importance and understanding of equality in integration programmes and to contribute to further thinking and action in the collective interests of the EU, Member States and third-country nationals on integration strategies.