

CARIM INDIA – DEVELOPING A KNOWLEDGE BASE FOR POLICYMAKING ON INDIA-EU MIGRATION

Co-financed by the European Union

Highly Skilled Indian migrants in Cyprus

Vera Pavlou

CARIM-India Research Report 2013/42

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**Highly Skilled Indian migrants in
Cyprus**

Vera Pavlou
PhD Student, European University Institute

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Requests should be addressed to India-EU.Migration@eui.eu

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European University Institute
Badia Fiesolana
I – 50014 San Domenico di Fiesole (FI)
Italy

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CARIM-India – Developing a knowledge base for policymaking on India-EU migration

This project is co-financed by the European Union and carried out by the EUI in partnership with the Indian Council of Overseas Employment, (ICOE), the Indian Institute of Management Bangalore Association, (IIMB), and Maastricht University (Faculty of Law).

The proposed action is aimed at consolidating a constructive dialogue between the EU and India on migration covering all migration-related aspects. The objectives of the proposed action are aimed at:

- Assembling high-level Indian-EU expertise in major disciplines that deal with migration (demography, economics, law, sociology and politics) with a view to building up migration studies in India. This is an inherently international exercise in which experts will use standardised concepts and instruments that allow for aggregation and comparison. These experts will belong to all major disciplines that deal with migration, ranging from demography to law and from economics to sociology and political science.
- Providing the Government of India as well as the European Union, its Member States, the academia and civil society, with:
 1. Reliable, updated and comparative information on migration
 2. In-depth analyses on India-EU highly-skilled and circular migration, but also on low-skilled and irregular migration.
- Making research serve action by connecting experts with both policy-makers and the wider public through respectively policy-oriented research, training courses, and outreach programmes.

These three objectives will be pursued with a view to developing a knowledge base addressed to policy-makers and migration stakeholders in both the EU and India.

Results of the above activities are made available for public consultation through the website of the project: <http://www.india-eu-migration.eu/>

For more information:

CARIM-India

Robert Schuman Centre for Advanced Studies (EUI)

Convento

Via delle Fontanelle 19

50014 San Domenico di Fiesole

Italy

Tel: +39 055 46 85 817

Fax: + 39 055 46 85 770

Email: India-EU.Migration@eui.eu

Robert Schuman Centre for Advanced Studies

<http://www.eui.eu/RSCAS/>

1. Policy Framework on highly skilled workers: recent and current

The conditions of the entry, stay and employment of Third-Country Nationals (TCNs) in Cyprus are set by the Aliens and Migration Law.¹ On the policy level, there are two relevant documents: the 1991 agreement signed by the social partners on the requirements for the employment of aliens and the 2007 Strategy for the employment of migrant workforce. Both documents have been approved by the government at the level of the Council of Ministers. The two policy documents enshrine the principle of equal treatment of foreign and national workers in relation to terms and conditions of work and the principle of EU and national preference.

Until 2012 Cyprus did not have any comprehensive scheme to attract and recruit highly skilled migrant workers. All migrant workers had to apply through the general labour migration scheme and their stay was in principle on a short-term basis (up to four years). An exception has been the case of TCNs employed by foreign companies.² Foreign companies with activities in Cyprus have been allowed to recruit or transfer to Cyprus the following categories of personnel:

- a) Directors, partners, general and departmental managers with a minimum annual salary of 41 006 Euro³ (up to five persons per company). There are no temporary restrictions for the residence permits of this group.
- b) Other key personnel with a minimum annual salary between 20503 and 41005 Euro. There are no temporary restrictions for the residence permits of this group.
- c) Assistant personnel. For this category a labour market test applies and there can be temporary restrictions to their residence permits.

Cyprus transposed the 2009 Blue Card Directive in 2012 by incorporating its provisions in the Aliens and Immigration Law.⁴ This was the first time that a legislative framework regulating the recruitment of highly skilled migrants was set. Along with Austria and Greece, Cyprus was late in transposing the Directive and received warnings (reasoned opinions under Art.258 Treaty on the Functioning of the European Union) from the European Commission to bring national law in line with EU legislation.

Even though the Blue Card Directive was recently transposed in Cyprus, its provisions have never been applied in practice. The Migration Department reports that for the time being Cyprus has set the volumes of admission on the basis of the Blue Card to zero and does not grant any permits for highly skilled employment.⁵ Hence, the legal and policy framework described below is currently not put into effect.

- Sectoral focus of the policy

At the moment, there is no specific sectoral focus. However, the Council of Ministers retains the right to introduce a sectoral focus with a Decree if an exceptional need arises. In that case, volumes of highly skilled TCNs would be allowed to enter with the purpose of taking up employment in specific sectors or professions.

¹ Chapter 105, Aliens and Immigration Law.

² Foreign companies or multinational corporations that fulfill certain requirements in relation to the nationality of their shareholders and their investment capital are eligible to recruit TCNs under special conditions set in the Council of Ministers decision n.64.693 of 29 November 2006.

³ This was the minimum in 2008. The threshold is adjusted every year.

⁴ Law 41(I)/2012, 27th of April 2012.

⁵ Communication by telephone with Mr. Riginos Polidefkis, Officer at the Migration Department (27 September 2013).

- Eligibility for permanent residence under the policy

After five years of legal and continuous residence the migrant worker is eligible to apply for a long-term residence status. The process and the requirements for acquisition of long-term residence are the same for highly skilled migrants as for any other category of migrant worker.

- Family reunification under the policy and the range of family members included

The highly skilled worker may apply for family reunification immediately upon arrival (no minimum residence requirements apply) and the Immigration Department must decide the latest within six months from the date of application. Derogating from the rules applicable to all other TCN workers, the highly skilled worker does not need to have reasonable prospects of acquiring permanent residence in order to qualify for family reunification.

The family members eligible for family reunification are: a) the spouse of the applicant provided that the marriage took place at least one year before the application for family reunification and that the spouse is at least 21 years old, b) the underage children of the applicant and his/hers spouse including their adopted children, c) the underage children (including adopted children) of the applicant's children provided that the applicant is exclusively responsible for their maintenance. All children must be under 18 years old and unmarried. Underage children between the ages of 15 and 18 must not live independently from the applicant. In case of an application for children between the ages of 15 and 18 who live independently, an entry permit on different grounds other than family reunification will be granted.

- The implementation of the 2009 Blue Card directive in Cyprus

Cyprus transposed the Blue Card directive in 2012, but it does not currently implement its provisions (see introduction for more details on this).

- Minimum salary requirements

The gross salary stipulated in the contract or the binding offer of employment cannot be lower than the national minimum wage⁶ and it should be at least equal to one and a half times the average gross annual salary in the Republic.

- The application of a labour market test

Before a TCN is granted a permit, a labour market test applies (Community preference principle). The Department of Labour of the Ministry of Labour and Social Insurance must assess the situation of the labour market before the Department of Immigration grants the permit. Cyprus follows the specifications of the EU Blue Card Directive on the extent of the labour market test: the test covers EU citizens, legally resident TCNs who are already incorporated in the national labour force and long-term resident TCNs from anywhere in the EU willing to move to Cyprus for the vacancy.

- Age restrictions

There are no age restrictions.

⁶ Cyprus does not have a statutory national minimum wage. Wages are primarily set in collective agreements between the social partners. As an exception to the free negotiations system, there are legislatively set minimum rates of payment covering specific occupations with generally low-paid, non-unionised workers. The occupations currently covered by the statutory minimum wage are: sales workers, clerks, assistant healthcare and assistant nursery staff, security guards, caretakers employed in clinics and nursing homes and cleaners employed in business and corporate premises.

- The definition of ‘highly skilled’ under the policy

Highly skilled employment is the employment of a person who is in salaried, dependent employment (i.e. protected as an employee under national labour law and practice) and who has adequate and specialised knowledge demonstrated by high professional qualifications.

High professional qualifications are qualifications which are demonstrated by an academic degree (acquired after at least three years of tertiary education) relevant to the sector or specific job for which the permit is requested.

The definition of “highly skilled” in the national law is to a large extent the same as in the EU Blue Card Directive. A difference with the Directive, however, is that Cyprus does not acknowledge the five years of professional experience as a substitute of an academic degree. Thus, an academic degree is a requirement to qualify for a permit.

- Linguistic training

The state does not provide or organise any linguistic training for potential or newly arrived migrants. The 2007 Strategy for the employment of migrant workforce states that employers should *facilitate* migrant workers’ attendance to language courses as a means of promoting their integration. However, this is a recommendation and does not impose on employers the obligation to provide any linguistic training.

- Special clauses for academic researchers

Academic researchers can receive a one year renewable residence permit for the purpose of conducting research in a host Institution in Cyprus.⁷ They are expected to receive a minimum of 2000 Euro per month if they are post-graduates/PhD candidates (2500 Euro if they have dependent family members) and a minimum of 2500 Euro per month if they are post-Doctorate researchers (3000 Euro if they have dependent family members). They are eligible for family reunification under the same conditions as highly skilled migrants and they have the right to teach for up to six hours per week. Academic researchers are entitled to equality of treatment in relation to recognition of qualifications, working conditions (including pay and dismissal), tax benefits and access to public goods and services.

- The recruitment of health care professionals

There are no special provisions for the recruitment of health care professionals. They must apply through the general provisions.

- MOU (Memorandum of Understanding) or bilateral agreement with India for the recruitment of health professionals

The only bilateral agreement between Cyprus and India on health care is limited on issues of cooperation and knowledge exchange and it does not cover the recruitment of health professionals.

- The access to the labour market of the spouses of principal applicants

The family members of the highly skilled TCN are granted immediate access to the labour market without having to fulfill any minimum residence requirements. But as access to the labour market for family members is subjected to the rules and conditions governing the employment of TCNs, a labour market test may in principle apply.

⁷ Law 29(I)/2009.

- Policy on intra-company employee transfers

See introduction

- For recent policies which have been discontinued or superseded by another policy, include a brief evaluation of its success or failure in terms of attracting highly skilled workers, with a special emphasis on Indian highly skilled workers

Not applicable in the case of Cyprus.

2. Policy Impact on the Recruitment of both Highly Skilled Labour in general and Indian highly skilled workers in particular

- **Data on main nationalities recruited so far (and main nationalities recruited in the recent past, for example, in the case of the German Green Card).**
- **Of these, the percentage and number of Indians recruited (if Indians are subsumed under a larger regional category such as 'South Asia' in national data, the data on South Asians can be included)**
- **If gender-disaggregated data is available, it should be included. Previous research has indicated that the vast majority of Indian highly skilled workers recruited are male**
- **Sectoral distribution of highly skilled workers in general and Indian highly skilled workers in particular**
- **Data (if available), on intra-company employee transfers**

As the national policy and legal framework on highly-skilled migrants has never been applied so far, no TCN has been recruited under such scheme. Nonetheless, Indians have been recruited in Cyprus under the general labour migration rules, under the specific provisions applicable to foreign/multinational companies (as explained in the introduction) and under the specific visa scheme for domestic workers. Also, there are some Indian nationals on student visas who can be employed on a part-time basis.

According to the latest data (June 2013) provided by the High Commission of India in Cyprus, there are presently 3200 (estimation) Indian workers and members of their families living in Cyprus. The vast majority of them are on short-term permits with a very limited number of long-term residents. The largest share of Indian workers is employed as computer engineers and software programmers in foreign companies and multinational corporations. For example one large corporation alone, AMDOCS, employs over 360 Indians in the Information Technology sector. These workers are predominantly male. There are also around 500 students pursuing academic or professional qualifications in private institutions and in areas such as Hotel Management, Tourism and Business Administration.⁸

There is also a group of semi-skilled Indians employed as temporary agricultural workers and as domestic workers in private households. The case of domestic workers must be specifically mentioned as Cyprus has a specific visa scheme to attract and recruit domestic workers in private households. At the moment there are approximately 30 000 TCNs on a domestic worker visa.⁹ This amounts to 50% of all TCN workers in Cyprus, making domestic work by far the largest sector of employment for non-EU nationals. Female migrants from South Asian predominate in the domestic work sector with Filipinos being the most numerous nationality group, followed by Vietnamese, Sri Lankans and Indians.¹⁰

⁸ Combination of data available on the website of the High Commission of India in Cyprus and information the same Authority provided in a telephone communication on the 27th September 2013.

⁹ The figure refers to permit-holders, thus only documented workers are considered. However, evidence suggests that there are significant numbers of undocumented workers in the sector as well.

¹⁰ Data from a report of the Cypriot High Commissioner for Administration (Ombudsman, as the national independent authority on human rights) on the status of domestic workers in Cyprus, July 2013.