

Kudwāgذ

POLICY REPORT

Labor Market Integration of Migrants in Spain
BETWEEN POLICY AND LIVED REALITY

2022

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Foreword

Kudwa is a migrant-led organization founded in 2020 in Barcelona to create a collective intercultural and diverse identity. Kudwa is a community of migrants and refugees, many of whom have had the opportunity to reach Spain through legal pathways, such as pursuing higher education, particularly through financial assistance provided by organizations funded by the Catalan Government aimed at students in conflict zones. They managed to leave their countries, where they faced persecution or poverty, intending to stay in Spain, work, and pursue a life with dignity.

Many are forced to flee their countries to avoid persecution or conflict. Yet, they often choose not to seek asylum for many reasons, including the precarious nature of the refugee status in Spain, not burdening the state, or simply avoiding being categorised as vulnerable. These migrants will be referred to hereafter as 'Third Country Nationals (TCNs), even though the term does not entirely capture the full extent of their circumstances.

This paper is part of Association Kudwa's awareness and advocacy work in informing and calling attention to issues that directly impact the migrant community and raising awareness of their perspective and lived experience to make real change and improve conditions and realities for migrants.



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Executive Summary

Theoretically, when accessing basic rights such as work or healthcare in Spain, a foreign person has the same recognized legal rights as any Spanish citizen. However, the Spanish framework on integration policies lacks provisions that specifically target the migrant population, especially the ones that belong to our specific collective; TCNs, namely migrants and refugees from the MENA region.

This disconnect between policies and reality has triggered the need to explore the barriers that prevent migrants and many refugees from entering the labor market in Spain and accessing decent work opportunities without discrimination or devaluation of skills or qualifications. It is worth noting that migrants sometimes have to seek asylum, start over somewhere new, or even go back to their country of origin despite the threat to their lives and livelihoods because of these barriers.

This policy report presents a study of labor market integration in Spain and explores the different issues preventing the policies in place from being implemented. It analyzes barriers to labor market integration and the different actors involved in the process. It reviews relevant policy texts, including directives from the state, and regional plans, such as the Citizen Migration Plan 2020 for Catalonia. It contrasts them with real-life case studies and testimonials to understand their implementation on the ground. Finally, the report presents recommendations and potential solutions to structural issues involving different stakeholders.

It also considers other informal barriers that are not policy-related but should be acknowledged and addressed by various stakeholders in the Catalan context.

Based on the study outlined above, we have identified six issues impeding labor market integration, which we categorize into three thematic areas:

- I. Bureaucratic difficulties
- II. Participation and access to information
- III. Discrimination and unfavorable employment conditions

This list of issues is not exhaustive, but it captures those barriers that must be prioritised. Furthermore, our recommendations are addressed to different stakeholders on various levels and include long-term and short-term solutions to the issues at hand.



Framework of Analysis

The framework for this project was founded on a preliminary exploratory workshop with residents of Catalonia from different migratory backgrounds, which aimed to identify the most critical challenges in labor market access and integration. The research methodology is based on two approaches; firstly, desk research of policies and issues concerning migration and the labor market; and secondly, interviews conducted with professionals, government representatives and civil servants. The report presents recommendations addressing the identified thematic challenge areas in Spain, particularly in Catalonia.

This policy report is intended to provide policy advisors, city officials, municipal and technical staff, and other stakeholders working in migration with scientific evidence of how certain policies fail to achieve their intended outcomes and lead to further complicating the situation of migrants' access to work in Spain.



Policy Framework

The most relevant process of acquiring the right to work for TCNs usually requires passing through the national list of 'hard to fill jobs' referred to as the 'Catalog of Occupations with Difficult Coverage', which has not been modified since 2012. Moreover, the applicant must pass the threshold of the National Employment Situation, proving that there are no Spanish nationals or European citizens who could satisfy the job requirements. Additionally, there are minimum salary requirements on contracts that qualify to give their holders work permits, which far surpass the average income in Spain. This process favors only a very specific niche of applicants and leads to the exclusion of many others who are highly qualified in various fields.

"The intention of some policies is to prevent/deter migration because the system is not capable of taking on more migrants/refugees"

Quote from an interview with a civil Employee in the Municipality of Ripollet

There are several policies put in place to regularize the conditions of TCNs, especially those residing illegally in Spain, that include the possibility to obtain work permits, such as Social Rooting¹ and Laboral Rooting², to name a few. In addition to other policies that allow residency without access to work permits, such as Job Search Visas³. These policies were designed to regularize 'illegal employment' and to allow TCNs to work after fulfilling multiple requirements (linguistic skills, years of residence in Spain, etc). At first glance, these policies seem to provide better access to the labor market and a means of regularizing insecure working conditions. However, upon reviewing the requirements and details of these policies and in conjunction with interviews with TCNs, it becomes evident that they are difficult to implement in practice and, in fact, hinder access to the labor market.

¹ Autorización residencia temporal por circunstancias excepcionales. Arraigo social <https://extranjeros.inclusion.gob.es/es/informacioninteres/informacionprocedimientos/ciudadanosnocomunitarios/hoja036/index.html>

² Autorización residencia temporal por circunstancias excepcionales. Arraigo laboral <https://extranjeros.inclusion.gob.es/es/informacioninteres/informacionprocedimientos/ciudadanosnocomunitarios/hoja035/index.html>

³ Autorización de residencia para búsqueda de empleo o inicio de proyecto empresarial <https://extranjeros.inclusion.gob.es/es/informacioninteres/informacionprocedimientos/ciudadanosnocomunitarios/hoja106/index.html>



Underlying Issues and Thematic Areas

Based on primary and secondary research, we find that the primary challenge to labor market access for TCNs⁴ in Spain is due to structural barriers hindering the acquisition of the initial right to work. Long bureaucratic processes, inaccessibility of information, and the unwillingness of employers to hire TCNs, amongst other issues, create a challenging environment for migrants wanting to access decent work. By exploring these problems and implementing the theory of change methodology, we identify six main issues under the following thematic areas:

Bureaucratic difficulties

Issue #1: Bureaucratic processes hindering the employment of migrants and limiting the appeal of hiring migrants for employers

Issue #2: Long processing times and bureaucratic delays

Lack of participation and access to information

Issue #3: Lack of participation / inclusion / feedback mechanisms on policy creation

Issue #4: Lack of access to information

Discrimination in employment, selection and processing

Issue #5: Superficial integration measures with more focus on capacity building, than resolving root causes

Issue #6: Discrimination in employment / selection / paperwork

Analysis

I. Bureaucratic Difficulties

Most of the policies related to rooting offer work permits conditional to presenting a specific and indefinite work contract, among other requirements. However, interviews showed that it takes between **three to five months** for the request to be processed by the Ministry of Foreign Affairs. Other sources cite the average processing time for an authorization to reside and work in Spain to be around **nine months**.⁵ During which the candidate is unable to work. Interviews with migrants

⁴ Third Country Nationals (TCNs): Any person who is not a citizen of the European Union within the meaning of Art. 20(1) of TFEU and who is not a person enjoying the European Union right to free movement, as defined in Art. 2(5) of the Regulation (EU) 2016/399 (Schengen Borders Code)

⁵ MEMORIA DEL ANÁLISIS DE IMPACTO NORMATIVO del Real Decreto por el que se modifica el Reglamento de la Ley Orgánica 4/2000



who have undergone recruitment processes and private sector companies highlight how these long and unforeseeable waiting times discourage companies from selecting migrant candidates, even if they are eligible for the required permits. Interview findings show that employers are often unwilling to wait for such long processing times.

"The problem is the lack of government staff to process applications. Additionally, employers are not fully aware of the situation; they do not belong to the collective and have no access to information on the ground."

Quote from a staff member from Ministry of Foreign Affairs regarding the long processing times

This comment is supported by data from 2020 mentioning that almost one in four jobs at immigration offices in Spain was vacant. In three offices this figure was higher than 40%, and in 12 offices vacancies extended to between 30% and 40% of their regular workforce. This means that a third of immigration offices lack more than a third of their staff.⁶

CASE STUDY

Sam, a 35 years old Syrian architect, has been living in Barcelona since 2014. She fulfills all the requirements for Social Rooting: she is a highly educated architect with a master's degree from a university in Barcelona and a strong CV including extracurricular activities. Sam is fluent in Spanish and speaks Catalan.

However, for years she was unable to obtain a valid contract that would allow her to do meaningful work.

Sam had to get a contract as a domestic worker in order to regularize her status and applied for Social Rooting in **August 2021**. She received the approval in **April 2022**, a long period during which she could not work nor leave the country. She received a permit that was valid until **August 2022**, at which point she will have to repeat the process again.

[https://www.inclusion.gob.es/participacion/downloadFile?blob=MAIN%20RD_mod_RLOEX_\(MENAS_JE_NAS\).docx&norma=2021006](https://www.inclusion.gob.es/participacion/downloadFile?blob=MAIN%20RD_mod_RLOEX_(MENAS_JE_NAS).docx&norma=2021006)

⁶ MEMORIA DEL ANÁLISIS DE IMPACTO NORMATIVO del Real Decreto por el que se modifica el Reglamento de la Ley Orgánica 4/2000

[https://www.inclusion.gob.es/participacion/downloadFile?blob=MAIN%20RD_mod_RLOEX_\(MENAS_JE_NAS\).docx&norma=2021006](https://www.inclusion.gob.es/participacion/downloadFile?blob=MAIN%20RD_mod_RLOEX_(MENAS_JE_NAS).docx&norma=2021006)



While migrants are stuck in this vicious cycle of unrealistic and, at times, inaccessible requirements, employers also face difficulties when requesting these permits, even if they are willing to accept processing times. Employers are asked to provide sensitive information pertaining to the business owners, financial records and contracting history, without having access to the government electronic portal system Mercurio,⁷ which is used to submit similar bureaucratic requests.

"We are aware of the high requirements for visas and work permits, and we are extremely aware that there are structural racism and discrimination at play."

Directorate General of Migration, Asylum and Antiracism

All the previously mentioned issues not only discourage employers from considering TCNs as valid candidates but effectively create discrimination in the hiring process and encourage the exploitation of migrants by the private sector. This contributes directly to the deskilling of migrants and the increased pay gap between them and nationals.⁸ The following table highlights the stark difference between average yearly incomes and unemployment rates among foreign employees and their Spanish counterparts.

Average annual earnings per worker: foreigners vs. Spaniards		20.470 €	26.713 €
unemployment rate between foreigners vs. Spaniards		21,7%	8,9%

Source: MIPEX-R: la gobernanza de la integración en seis regiones españolas: https://www.cidob.org/en/publications/publication_series/cidob_policy_brief/mipex_r_la_gobernanza_de_la_integracion_en_seis_regiones_espanolas

⁷ Sede electrónica Administraciones Públicas

https://sede.administracionespublicas.gob.es/pagina/index/directorio/ayuda_de_navegacion

⁸ MIPEX-R: la gobernanza de la integración en seis regiones españolas:

https://www.cidob.org/en/publications/publication_series/cidob_policy_brief/mipex_r_la_gobernanza_de_la_integracion_en_seis_regiones_espanolas



II. Lack of participation and access to information

Upon evaluating the policy cycle from policy drafting to implementation, we found a strong disconnect between the policy level and implementation, where our findings highlight a lack of feedback mechanisms and channels for policy reform. Research from MIPEX shows that NGOs and labor organizations are “**only occasionally involved**” in the formulation stage of regional integration measures in Catalonia. Additionally, the general usage of government services specific to migrants and refugees is “not monitored in a coordinated manner”, nor are there effective feedback mechanisms evaluating the extent and character of discrimination against migrants in the region.⁹

“Migrants are not involved in the formulation nor evaluation of policies that directly impact their livelihoods and the dignity of their lives in their new communities.”

There is second-class citizenship for migrants and third-class citizenship for irregular migrants. Migrant collectives are infantilized collectives. White people tend to speak on behalf of migrants. Exclusion of migrants from active citizenship creates a system of “apartheid”, according to Gonzalo Fanjul, Head of Research and co-founder at porCausa Foundation.

Lack of participation in policy-making is partially due to missing feedback and communication channels between legislators and TCNs. There is a lack of inclusion of migrants and migrant-led organizations, further exacerbated by the limited access to information, as has been highlighted several times in the conducted interviews. In this context, it is important to note the complexity of the legal framework and lack of access to information in different languages cause disparity between having the legal rights and access to those rights.

One of the first points of contact and primary sources of legal information is Service of Attention to Immigrants, Emigrants and Refugees (SAIER)¹⁰, which is a free legal service supposedly directed to migrants and refugees. However, and since COVID, there is a prioritization for refugee cases, as well as long waiting times to receive

⁹ MIPEX-R <https://r.mipex.eu/region/66>

¹⁰ Service of Attention to Immigrants, Emigrants and Refugees (SAIER), <https://ajuntament.barcelona.cat/novaciutadania/es/servicio-de-atencion-inmigrantes-emigrantes-y-refugiados-saier>



consultations. This results in migrants consulting their communities, which causes a wide spread of non-specific, possible inaccurate legal information. Here, it is worth pointing out the critical role of NGOs and Civil Society Organizations to provide this information and ensure its legal accuracy and specificity to the different cases and situations. However, this could burden the organizations, especially the ones that are not specialised in legal matters or that have limited resources.

In Catalonia, linguistic barriers also form an added challenge where online and offline processing systems are usually available only in Catalan. A first contact point with information translated into other languages is similarly missing.

III. Discrimination in employment, selection and processing

Taken at face value, employment rate statistics and reports seem to indicate a lack of qualification and employability of TCNs. However, we argue that this view is rooted in racism and harmful narratives that depict migrants and refugees as less qualified than Spanish/European nationals. The actions and programs of the Citizen Migration Plan (CMP) 2017-2020 show a strong focus on capacity building rather than improving labor market access for migrants. Moreover, the plan does not address the underlying bureaucratic issues preventing legal access to the labor market. Instead, many of the actions under the CMP focus on the “employability” of TCNs through capacity building and career guidance for immigrants, refugees and returnees.

“Until we are able to reform the legal framework, our focus is on the employability of migrants.”

Directorate General of Migration, Asylum and Antiracism

Catalonia has several vocational training and job orientation measures aimed at promoting the employment of foreign candidates. However, it lacks programs to address the employment situation of migrant groups with special needs, as well as programs to combat discrimination and exploitation.¹¹

The sole focus on employability and capacity building represents a misallocation of resources as many TCNs possess higher education qualifications. Lack of recognition of their qualifications is an issue; however, migrants are often not even considered for

¹¹ Labor Regulations - Generalitat de Catalunya
<https://treball.gencat.cat/en/ambits/estrangeria/documents/normativa/>



roles that do not require qualifications due to the issues mentioned above. Such roles include positions in the technology and construction sectors¹².

A more pressing issue is resolving the complex legal framework of obtaining work permits and combating the apparent discrimination in selection and hiring processes by employers, where TCNs are denied access to interviews or equal opportunities despite their eligibility for obtaining work permits.

Interviews show that employers preemptively exclude migrants from interviews, despite their eligibility for obtaining a work permit upon contracting. This, in turn, puts many in a vicious cycle of waiting for work offers to regularize their situations, and at the same time being unable to go through any meaningful interviews.

¹² MEMORIA DEL ANÁLISIS DE IMPACTO NORMATIVO del Real Decreto por el que se modifica el Reglamento de la Ley Orgánica 4/2000

[https://www.inclusion.gob.es/participacion/downloadFile?blob=MAIN %20RD_mod_RLOEX_\(MENAS_JE_NAS\).docx&norma=2021006](https://www.inclusion.gob.es/participacion/downloadFile?blob=MAIN %20RD_mod_RLOEX_(MENAS_JE_NAS).docx&norma=2021006)



Findings and Recommendations

#1: Recommendations for Policy-makers

- Reforms to bureaucratic processes as follows:
 - Establish a 'pre-approval system' and explore the possibility of issuing a 'temporary/conditional work permits' for eligible candidates while processing their applications: whereby candidates who are preapproved and fulfill the requirements would be allowed to work conditionally and travel while they wait for the result of their application. During this time, candidates are registered with the social security system and can contribute to the tax system. Similar examples have been implemented successfully in the **Netherlands and Germany**.
 - Investment in staffing migration offices to offset the delays in processing times and reduce the precarity of applicants' situations while waiting for the resolution of their situation. This could entail expediting applications for a specific fee: this option opens the door to allow for expedited paperwork that the hiring company can benefit from.
 - Moving towards a points-based system where the contributions of the person to society and community can be taken into account. TCNs who work artists and activists, should be able to work freely on their art and social work without having the limitations of a full-time indefinite contract. **In Germany in 2018**, a points system was established based on the information provided by existing tools to detect employment needs.
 - Removing restrictions to work for people with Job Search Visa and providing them the right to work temporarily until receiving a more secure work situation.
- Provide intercultural training for migration office employees and mandate employment quotas of TCNs in the public sector, particularly bureaucratic processing and migrant-facing positions to ensure a more empathetic and accessible service in these departments.
- Include migrants, refugees and NGOs in the drafting of migration policies, in particular, migrant and refugee-led NGOs actively work on migrant integration issues (e.g. translation services, reception, inclusion and integration courses, legal aid etc).



- Considering exclusion from the interview and selection process based on work permit status as a reportable act of discrimination. Offer incentives (such as tax cuts) to companies that employ migrants and refugees. Provide more training and tools to employers to navigate the complexity of bureaucratic processes. Create deterrents to exploitation and discrimination of TNCs based on status and promote competency-based interviews and selection processes.

#2: Recommendations for Employers

- Train HR personnel in bureaucratic processes relevant to hiring non-EU citizens (jointly with the Generalitat de Catalunya or local government bodies) and adapt selection and hiring processes to be more inclusive and fair.
- Adopt social responsibility policies in employment, focusing on inclusion and accountability. This includes competency-based precarity and selection processes, regardless of work permit status.

#3: Recommendations for NGOs

- Hire more migrants for management positions, particularly in NGOs that work on migration issues, to create platforms through which migrants and refugees can be active agents of change.
- Forge coalitions among Migrant-led NGOs and CSOs and create (in)formal support systems tailored to migrants and refugees. Mobilize resources from more prominent NGOs to support migrant-led organizations and grassroots organizations working on relevant issues from the labor market to housing rights.
- Strengthen their role as mediators providing information and assistance to migrants and refugees on how to access the labor market, and handle paperwork and other relevant processes, while also acting as robust reporting mechanisms that enable migrants to voice their needs and reach policy-makers and administrators.