

# Self-study Course for Trainers of Intercultural Mediators

Module 6

## Legal aspects in intercultural mediation for immigrants

Olympic Training & Consulting Ltd.

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Erasmus+



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## 1.1. Objective

This module provides an overview of the legal framework of intercultural mediation. It is addressed at trainers from professions other than the legal field, in order to ensure awareness on the issues faced by intercultural mediators (IMs) in their everyday practice. Issues of human rights, legal status of migrants, rights and obligations of IMs, as well as legal responsibilities of professionals who work with IMs are discussed.

At the end of this module, the trainer should be able to:

1. Recognize the implications of IM deontology for the trainer's field of specialization
2. Consult IMs how to take into account the legal responsibilities of professionals working with them in order to achieve better results
3. Direct IMs to pertinent institutions or authorities for human right protection and conflict resolution
4. Guide IMs in the prevention of and coping with incidents of discrimination
5. Identify how the legal framework and changes thereto affect the work and intervention scope of IMs

## 1.2. Rights and obligations of intercultural mediators

### Position of intercultural mediators in national law / regulations

The framework for the role of IMs can be specified by taking into account the national law or regulations. Throughout Europe the legal status of IMs varies - from full technical definition of their service to 'de facto' recognition of their role or to complete absence of any reference to the functions performed by them. Hence, the scope of their intervention in each country will be different. Training the IMs must be adapted to the framework permitted by law, without interfering in areas where the legislation clearly requires for other professionals to take action.

In cases where the national law does not make any clear reference or provision for the services of IMs, the IMs should identify the 'gaps' in the services provided by the public sector authorities, where there is actually a need for IMs.

For more information about the position of IMs and their legal status in various countries of the European Union, see the *Research Report for intercultural mediation for immigrants in Europe*, June 2015, issued by the TIME partnership ([http://www.mediation-time.eu/index.php?option=com\\_content&view=article&id=3&Itemid=122&lang=en](http://www.mediation-time.eu/index.php?option=com_content&view=article&id=3&Itemid=122&lang=en)).

### Deontology code

Wherever the service of IMs is clearly defined in terms of the national law or regulations, there may be deontology issues deriving from such legislation. Of course, in any case or country, a significant part of the deontological issues the IMs should take into account can be expected to depend on the deontology frame for the operation of the main public agencies or institutions, where IMs are required to provide their services. IMs should be aware of this frame and identify appropriate ways to adapt to it. They should try to find out within each public agency/institution any sources of information for deontology issues. This includes their being aware of the role and services provided by information offices in each of these institutions.

In most IM deontology codes, the principles are common, thus providing guidance also for countries where no such code is available yet. These principles are:

- *Confidentiality*: All information concerning an individual's personal circumstances, which can be acquired during a communicative IM intervention, should be treated in terms of confidentiality. This quality is crucial in order to protect the immigrant to establish a trusting relationship with him - without it no real help can be provided.
- *Impartiality*: This quality involves neutrality and objectivity. The IM's role is by no means related to judging the immigrant or his way of thinking. It is also different from advocacy in behalf of the immigrant or the professional/public institution. The IM's field of action lies right in between the two sides as a 'bridge', keeping the communication 'lines' open between the two parts and plainly relating the facts as expressed by each side.

- *Respect*: The IM faces the challenge of showing equal respect to both the individual in need and the hosting community. Obviously this is linked to the above mentioned quality of impartiality, but furthermore involves:
  - Having due regard for the immigrant’s rights and feelings, as a result of the dangerous, difficult, or otherwise unfortunate situation he is into.
  - Having due regard for the welfare of the community, as related to the proper integration of the immigrant in it. The IM should endorse the value of helping the immigrant to find his place in the local community.
- *Professionalism*: This principle involves the IM’s integrity in carrying out his duties and his choice of proper adaptation to the ‘borders’ of his authority, inside the legal framework and beside the role of the other professionals involved in any particular case of intervention. It also involves to assume responsibility for the quality of interventions and further professional development (upskilling) according to the market’s requirements.

In the countries of the TIME partnership, only Belgium has a code of ethics for intercultural mediators, both in healthcare and in social services. These codes are accessible in the national languages in the following links:

- Verrept, H. & Coune, I. (2016). Gids voor de interculturele bemiddeling in de gezondheidszorg. Brussel: FOD Volksgezondheid, Veiligheid van de voedselketen en Milieu.  
[http://health.belgium.be/internet2Prd/groups/public/@public/@dg1/@mentalcare/documents/ie2divers/19091398\\_nl.pdf](http://health.belgium.be/internet2Prd/groups/public/@public/@dg1/@mentalcare/documents/ie2divers/19091398_nl.pdf)  
[http://www.setisbxl.be/index.php?option=com\\_content&view=article&id=71&Itemid=58](http://www.setisbxl.be/index.php?option=com_content&view=article&id=71&Itemid=58)

In 2016, a code of ethics was also proposed in Portugal [Silva, Ana Maria; Carvalho, Maria de Lurdes & Aparicio, Miriam (2016). Formação, profissionalização e identidade dos mediadores sociais:  
<https://repositorium.sdum.uminho.pt/handle/1822/41086>]



*Compare the following deontology codes for intercultural mediators and community interpreters. What is common? What is different and what does this imply for the role of the IM in the country?*

Country	Link to deontology codes
Belgium	<a href="http://www.setisbxl.be/index.php?option=com_content&amp;view=article&amp;id=71&amp;Itemid=58">http://www.setisbxl.be/index.php?option=com_content&amp;view=article&amp;id=71&amp;Itemid=58</a> (in French)
Finland	<a href="http://wasli.org/wp-content/uploads/2013/10/80_coe-svt.pdf">http://wasli.org/wp-content/uploads/2013/10/80_coe-svt.pdf</a>
France	<a href="http://www.professionbanlieue.org/c__7_40_Publication_1974__0__Les_femmes_relais_mediatrices_sociales_et_culturelles_Des_principes_deontologiques_un_metier_87_p_a_telecharger.html">http://www.professionbanlieue.org/c__7_40_Publication_1974__0__Les_femmes_relais_mediatrices_sociales_et_culturelles_Des_principes_deontologiques_un_metier_87_p_a_telecharger.html</a> (in French)
Canada	<a href="http://www.multi-">http://www.multi-</a>

## Liability

The role of IMs as a communication bridge is not free of responsibility. True, other professionals and public sector officials (medical, administrative, local authorities, government etc.) have the greatest responsibility and liability in their encounters with migrants. However, the quality of interpreting or lack of it in such sensitive sectors as health, social services, asylum services etc. can have serious implications for the lives of the migrants involved, since professionals rely on the information they receive through the IM.



*Even if there are no legal regulations on IM liability, what are the ethic implications? Can you think of problems poor interpreting could cause? How should this affect the quality of IM training?*

Learn more



*Interpreters in Intercultural Health Care Settings: Health professionals' and professional interpreters' cultural knowledge, and their reciprocal perception and collaboration* [Ingrid Hanssen & Lise-Merete Alpers, Lovisenberg Diaconal University College - Oslo, Norway, Journal of Intercultural Communication, issue 23, June 2010]

<http://www.immi.se/intercultural/nr23/hanssen.htm>

## Legal responsibilities of professionals who work with IMs

IMs usually collaborate with professionals who carry heavy responsibilities and whose work is strictly regulated by law, such as healthcare professionals, police forces, public servants, and teachers. The legal responsibilities of professionals who work with IMs are originally outlined in the deontology rules governing the operation of each public/professional institution, in the context of which IM services are provided.

An IM should be well acquainted with these legal frameworks, not just in theory but in applied terms.



*How should medical deontology affect the IM's responsibility? How do regulations of public services limit what a public servant can do? How does the IM's awareness of such limitations improve the quality of interaction between professionals and IMs? How is the quality of services affected?*

## Other types of mediation as differentiated from IM

According to the way each community is distinctively organized, there can be other types of mediation services available for individuals or groups. These may form parts of the function of official state institutions or provided through independent bodies or agencies - either under some kind of general state supervision or not. They can also be official internal procedures in the function of private sector business institutions. These mediation services may focus on dispute resolution or dispute prevention, such as facilitating the process of contract negotiation. They can consist of purely legal services (advocacy) or extend to other ways of social intervention. Due to the specialized nature of such services, they may require solely field professionals/experts to carry them out. Governments can use mediation to inform and to seek input from stakeholders in formulation or fact-seeking aspects of policy-making.

Mediation is applicable to many areas of community life, e.g. family, workplace, commerce, public disputes, school conflicts, violence prevention, victim-offender mediation, faith communities.

If you are aware of the general function of this variety of mediation services, though not in extensive detail, but in terms of confirming the boundaries between them and the IM role in the community, you can better understand the nature of the IMs interventions.



*Which of the above fields of may be involved in intercultural mediation for immigrants in your country? What is the difference between the role of the IM for immigrants and other mediators? How can IMs take advantage from the resources available in mediation theory and practice? See for example the study:*

*Third Party in Workplace Conflicts - The Mediators Conflict Management and Intercultural Competencies, Janne Laukalla, 2015, University of Yuvaskyla [ [https://jyx.jyu.fi/dspace/bitstream/handle/123456789/47322/978-951-39-6331-6\\_rajoitettu.pdf?sequence=5](https://jyx.jyu.fi/dspace/bitstream/handle/123456789/47322/978-951-39-6331-6_rajoitettu.pdf?sequence=5) ]*

### 1.3. Human rights

#### Scope of human rights

*“To deny people their human rights is to challenge their very humanity.”*

**Nelson Mandela**

Human rights are based on the principle of respect for the individual. Their fundamental assumption is that each person is a moral and rational being who deserves to be treated with dignity. They are called human rights because they are universal. Whereas nations or specialized groups enjoy specific rights that apply only to them, human rights are the rights to which everyone is entitled - no matter who they are or where they live - simply because they are alive.

In order to provide a full view of the services that can be included in their role, the IMs should have a clear picture of the scope and spectrum of the human rights as applied in various aspects of the community life. Learning about, learning through and learning for human rights is crucial for the IMs in order to effectively promote social integration and cohesion in their interventions. At the same time, maintaining a realistic view of how human rights are applied in different contexts can help them be balanced and discerning in their interventions.

Human rights can be categorized into the following areas:

- Freedom of thought, conscience and religion
- Health issues
- Freedom of association
- Social, economic and cultural rights
- Education
- Administration and government
- Work and business issues
- Conflicts

**Learn more** 

- Scope and Categories of Human Rights, Jyotsna Mishra Tiwari, 2006, Isha Books
- COMPASS Manual for Human Rights Education With Young People, 2012, Council of Europe Publishing
- International Human Rights Law - CASES, MATERIALS, COMMENTARY (Second Edition), Olivier De Schutter, 2014, Cambridge University Press

#### The Universal Declaration of Human Rights

Source Link:

<http://www.un.org/en/universal-declaration-human-rights/>

## The Convention on the Rights of the Child

Source Link:

<http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

[http://www.unicef.org/crc/files/Rights\\_overview.pdf](http://www.unicef.org/crc/files/Rights_overview.pdf)

## Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms. Strasbourg

This is a fundamental legislative source of information that can be of great help to IMs while carrying out their role. You can learn more, in order to clarify the validity and the broad scope of this legislation, in the following useful links:

- [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf) [Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 1950]
- <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/117> [Details of Treaty No.117 - Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms]
- <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168007a082> [Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms]

## Anti-exclusion and anti-discrimination policies

### *Definition*

**Discrimination** refers to unequal treatment, unjustified by any legitimate reasons. Each discriminatory act is a violation of the principle of equality as well as fundamental rights and freedoms of a person.

Often racial and ethnic prejudice lead to discrimination against the subordinate racial and ethnic groups in a given society. Discrimination in this context refers to the arbitrary denial of rights, privileges, and opportunities to members of these groups. The use of the word arbitrary emphasizes that these groups are being treated unequally not because of their lack of merit but because of their race and ethnicity.

**Exclusion** and rejection are key ingredients in discrimination. They occur when people do not appreciate diversity or differences. They occur when people are prejudiced or have formed their own opinion about others because of their social, political, religious, sexuality, interests, culture, traditions, and so on.

### *Types of discrimination*

**Direct discrimination** arises if a person has been, is or would be treated less favorably than other persons in a comparable situation on grounds of a prohibited motive (racial or ethnic origin, religion, sex, disability, age or sexual orientation). For example, in a job announcement the employer clearly states that persons of non-Polish nationality will not be employed. In practice, such an explicit form of discrimination rarely occurs. The implicit forms of unequal treatment arise more often.

**Indirect discrimination** arises if an apparently neutral provision, criterion or practice puts a person or a group of persons at a particular disadvantage compared with other persons unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

**Positive discrimination** occurs when the state applies temporary solutions, introduces a practice or implements a specific legal means in order to equalize opportunities of persons belonging to particular minority groups, e.g. foreigners, in order to diminish factual instances of unequal treatment they receive. Such form of discrimination is legitimate, yet it may be applied but in a particular time and context because it may turn into discrimination of persons from majority groups that used to be privileged before.



People who practice racial or ethnic discrimination are usually also prejudiced, but not always. Some people practice discrimination without being prejudiced, and some may not practice discrimination even though they are prejudiced.

Institutional discrimination often stems from prejudice, but institutions can also practice racial and ethnic discrimination when they engage in practices that seem to be racially neutral but in fact have a discriminatory effect.



*If you have ever experienced individual discrimination, either as the person committing it or as the person affected by it, briefly describe what happened. How do you now feel when you reflect on this incident?*

### *EU anti-discrimination policies*

The Council of Europe has established various bodies and programs to fight discrimination in Europe. The European Commission against Racism and Intolerance (ECRI), which was set up 1993, regularly publishes surveys on the phenomenon of racism and intolerance in Council of Europe member states. It also organizes round tables with representatives of civil society and adopts general policy recommendations that are addressed to governments.

The Fundamental Rights Agency, an independent body of the European Union established in 2007, provides expertise to member states implementing law on fundamental rights matters. In addition it seeks to raise public awareness on human rights questions and cooperate with civil society. Several European countries have established some kind of national equality body to fight discrimination and promote equality and tolerance.

Learn more 

- EU fight against discrimination:  
[http://ec.europa.eu/justice/discrimination/index\\_en.htm](http://ec.europa.eu/justice/discrimination/index_en.htm)
- The fight against poverty, social exclusion and discrimination:  
[http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuid=FTU\\_5.10.9.html](http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuid=FTU_5.10.9.html)
- European Anti-Discrimination Law Review  
[http://ec.europa.eu/justice/discrimination/files/antidiscrimination\\_law\\_review\\_12\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/antidiscrimination_law_review_12_en.pdf)
- European Union (EU) anti-discrimination law:  
[http://www.era-comm.eu/anti-discrimination/e\\_learning/kiosk/dokuments/Anti-discrimination.pdf](http://www.era-comm.eu/anti-discrimination/e_learning/kiosk/dokuments/Anti-discrimination.pdf)
- Fighting against discrimination and promoting diversity in the European labour market:  
<https://refugeelocalwelcome.wordpress.com/2015/12/14/enda-europe-did-fighting-against-discrimination-and-promoting-diversity-in-the-european-labour-market/>
- The right to equality and non-discrimination in the administration of justice:  
<http://www.ohchr.org/Documents/Publications/training9chapter13en.pdf>
- The Role of Employers in Migrant Integration, EWSI INTEGRATION DOSSIER 2013/2., Prepared by the Migration Policy Group, European Commission  
[http://www.cidob.org/es/content/download/63242/1959086/version/1/file/EWSI\\_Integration-Dossier\\_Role-of-Employers.pdf](http://www.cidob.org/es/content/download/63242/1959086/version/1/file/EWSI_Integration-Dossier_Role-of-Employers.pdf)

### *National anti-discrimination policies*

It is vital to understand how and to what extent diversity is incorporated by the local/national legislation. Both trainers and IMs need to have a good understanding of the national anti-discrimination policies. For this purpose we can resort to resources provided by national or non-governmental anti-discrimination and equality agencies to get an accurate view of the fields in which these policies are locally applied. Indicatively, such information is provided for some of the partnership countries (as valid of May 2016).

#### Belgium

Vrielink, J. (2003). De nieuwe Belgische antidiscriminatiewet. In *Vrijheid en gelijkheid, de horizontale werking van het gelijkheidsbeginsel en de nieuwe antidiscriminatiewet* (pp. 189-244). Maklu.

De Vos, M. (2008). Positieve actie en positieve discriminatie in het Europese en Belgische discriminatierecht. *De Nieuwe Federale Antidiscriminatiewetten-Les Nouvelles Lois Luttant contre la Discrimination*, 297-332.

Adams, M. (2003). *Vrijheid of gelijkheid? De nieuwe Belgische antidiscriminatiewet en de soevereiniteit in eigen kring*.

#### Germany

- Antidiskriminierungsstelle des Bundes:  
[http://www.antidiskriminierungsstelle.de/DE/Home/home\\_node.html](http://www.antidiskriminierungsstelle.de/DE/Home/home_node.html)

## Greece

- Νόμος 3304/05 για την ίση μεταχείριση  
<http://www.synigoros.gr/?i=metaxeirisi.el.laws>
- Ελληνική νομοθεσία κατά των διακρίσεων λόγω σεξουαλικού προσανατολισμού  
<https://dplegalservices.files.wordpress.com/2009/05/ceb5cebbcebbceb7cebdceb9cebaceb7-cebdcebfccebfceb8ceb5cf83ceb9ceb1-cebaceb1cf84ceb1-ceb4ceb9ceb1cebacf81ceb9cf83ceb5cf89cebd-cf83.pdf>
- Καταπολέμηση των διακρίσεων στην Ελλάδα. Έκδοση του Παρατηρητηρίου Καταπολέμησης των Διακρίσεων, 2011.  
[http://ekke.gr/oed/wp-content/uploads/2014/01/oed\\_newsletter\\_01.pdf](http://ekke.gr/oed/wp-content/uploads/2014/01/oed_newsletter_01.pdf)

## **National and international institutions and networks representing human rights**

IMs are usually not legal experts. They need to take expert advice when handling with issues that specialize on legal terms. They need to know how and where to effectively search for this kind of advice. In certain cases they need to refer a case to an institution dedicated to the protection of human rights or other issues pertaining to migrants.

In the following part, some international organizations are listed as well as institutions operating at national level.

### *a. International institutions*

- <http://www.ohchr.org/EN/Countries/NHRI/Pages/NHRIMain.aspx> (info about National Human Rights Institutions (NHRIs))
- [http://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI\\_en.pdf](http://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI_en.pdf) [*National Human Rights Institutions History, Principles, Roles and Responsibilities*, UNITED NATIONS New York and Geneva, 2010]
- <http://www.wfuna.org/human-rights-grants> [*Human Rights Grants*, World Federation of United Nations Associations]
- [http://www.nhri.net/pdf/Evolution\\_of\\_NHRIs.pdf](http://www.nhri.net/pdf/Evolution_of_NHRIs.pdf) [*THE EVOLUTION OF NATIONAL HUMAN RIGHTS INSTITUTIONS - The Role of the United Nations*, Anna-Elina Pohjolainen, January 2006, The Danish Institute for Human Rights]
- <http://www.migpolgroup.com/anti-discrimination-equality/european-anti-discrimination-legal-network/> - *EUROPEAN ANTI-DISCRIMINATION LEGAL NETWORK*

### *b. National institutions and links per country*

#### Belgium

- <http://diplomatie.belgium.be/nl/Beleid/beleidsthemas/mensenrechten>

#### Germany

- Auswärtiges Amt, Schutz der Menschenrechte:

[http://www.auswaertiges-  
amt.de/DE/Aussenpolitik/Menschenrechte/Uebersicht\\_node.html](http://www.auswaertiges-amt.de/DE/Aussenpolitik/Menschenrechte/Uebersicht_node.html)

- Deutsches Institut für Menschenrechte  
<http://www.institut-fuer-menschenrechte.de/startseite/>
- Bundestagsausschuss für Menschenrechte und humanitäre Hilfe (Bundestag Committee on Human Rights and Humanitarian Aid)
- Nationaler Aktionsplan "Wirtschaft und Menschenrechte" (National action plan „Economy and human rights")  
[http://www.auswaertiges-  
amt.de/DE/Aussenpolitik/Aussenwirtschaft/Wirtschaft-und-  
Menschenrechte/NAPWiMr\\_node.html](http://www.auswaertiges-amt.de/DE/Aussenpolitik/Aussenwirtschaft/Wirtschaft-und-Menschenrechte/NAPWiMr_node.html)
- Forum Menschenrechte (network of 52 German NGOs)

### Greece

- [http://www.humanrights.com/el/voices-for-human-rights/human-rights-  
organizations/non-governmental.html](http://www.humanrights.com/el/voices-for-human-rights/human-rights-organizations/non-governmental.html)
- Κέντρο Προάσπισης Ανθρωπίνων Δικαιωμάτων (ΚΕΠΑΔ)  
<http://www.kepad.gr/>

### Italy

- ASGI - Associazione per gli studi giuridici sull'immigrazione  
<http://www.asgi.it/tematica/documenti-asgi/>
- Amnesty International - <http://www.amnesty.it/>

### Poland

- <http://www.rpo.gov.pl/pliki/13575655150.pdf>

### Portugal

- Composição da Secção das ONGS do Conselho Consultivo da CIG:  
[https://www.cig.gov.pt/wp-content/uploads/2016/04/CC\\_ONGS-abril2016.pdf](https://www.cig.gov.pt/wp-content/uploads/2016/04/CC_ONGS-abril2016.pdf)

## **The role of the IM in cases of violation of human rights**

Immigrants are often subjected to various abuses of their human rights by public authorities, unscrupulous employers, or by public institutions of the host countries. For example, they can be deprived of their salary, retained their passports and other official documents, submitted to verbal or physical violence, lack adequate housing and access to health care systems, and be subjected to inhuman treatment concerning arbitrary arrest and detention. Women, who make up about 50% of immigrant workers worldwide, are particularly vulnerable to exploitation, which includes sexual violence.

Migrant workers are often too afraid to complain about their situation. If they proceed to do so, they may be fired by their employer, and if they resort to the authorities, lack of knowledge about the legal implications, combined with their limited linguistic

competences in the language of the host country may form serious obstacles to the communication, feeding back their fear of sanctions, or even being deported from the country. IMs stand by their side, to help them gain access to the services they need.

Of course, IMs can play an important role in preventing various kinds of violation of individuals' human rights, through ensuring the immigrants'/refugees' access to and benefit from required civil services. **However, IMs are not lawyers.** Their role is to inform migrants of the possibility their rights to be (or have been) violated and to provide them with the option to resort to and consult national and international institutions and networks representing human rights for getting the necessary assistance by professionals. The extent to which an IM can engage in advocacy differs in every country.

*What is the role of the IM in each of the following cases?*



- a) Employer's refusal to pay a migrant employee what is defined by the law as a benefit or insurance coverage*
- b) Cases of illegal violence by police, illegal detention, obligation in appalling conditions during detention*
- c) Not providing proper services to immigrants due to racist attitude of public servants*
- d) Manipulation of immigrants in cases of their appeal to government agencies, by taking advantage of their ignorance of their rights*

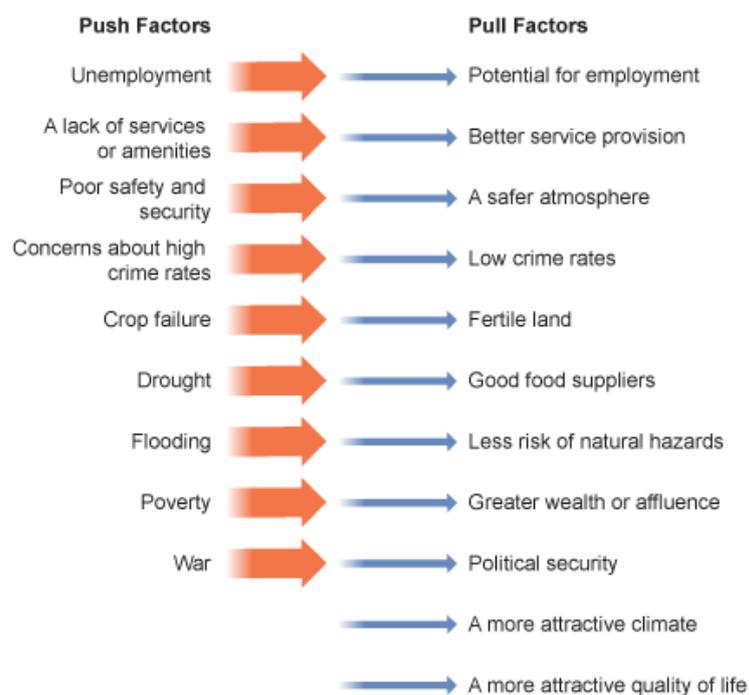
## 1.4. Legal status of migrants and the migration law

### History of migration with focus on the 21st century

Human migration is a constant phenomenon, parallel to the evolution of human civilization. The following diagrams describe the basic factors for migrating.



Source: <http://www.slideshare.net/stevenheath148/migration-2008>



Source:

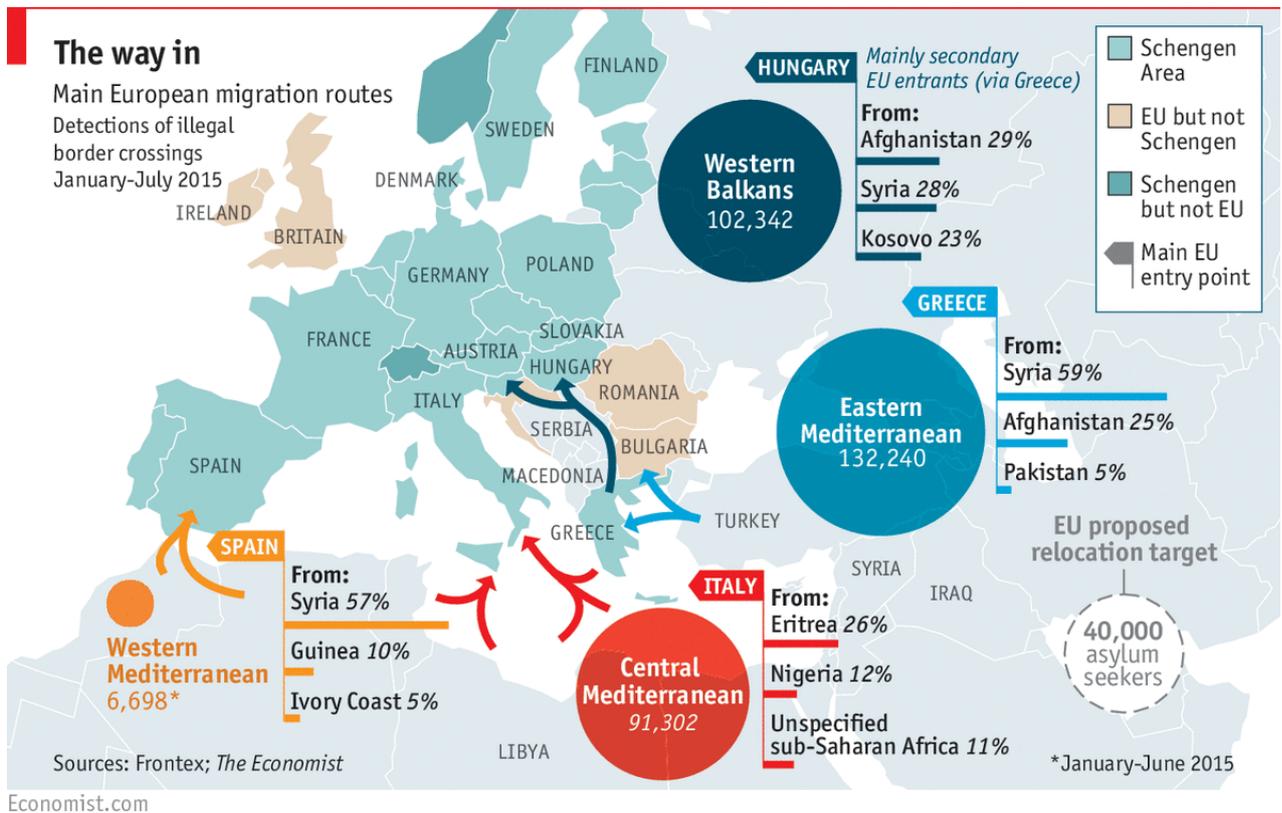
[http://www.bbc.co.uk/schools/gcsebitesize/geography/migration/migration\\_trends\\_rev2.shtml](http://www.bbc.co.uk/schools/gcsebitesize/geography/migration/migration_trends_rev2.shtml)

Human migration is and will still be a defining issue of the 21st century, growing a dramatic dispute on which are the best ways and policies to cope with this fact. In this 21th century, all developed nations have become countries of immigration, whether they

chose to recognize this fact officially or not. The migratory flows throughout the world have become gross, especially because of the major upheavals in the Middle East and Northern Africa areas, and their emergence has become more than obvious.

This ever changing setting calls for a comprehensive understanding of international migration, especially concerning the size and structure of the world's and especially Europe's leading 'migratory systems' today, taking into account the factors that activate the current migratory flows, the characteristics of these flows and the ways they affect the legal and cultural procedures of migrants' integration in the local societies.

The first 16 years of the 21<sup>st</sup> century have marked a new era in the history of migration. The growing political instability or 'fragility' in various countries throughout the world and especially in in the Middle East and Northern Africa (*see <http://fsi.fundforpeace.org/>, Fragile States Index 2015*) supplies increasing number of migrants and refugees flowing into Europe through the Mediterranean sea. The continuous armed conflicts mainly in Syria, but also in Iraq, Afghanistan, Libya, Somalia, combined with political instability, poverty and civil freedom issues in these countries and more, like Eritrea, Sudan and the Maghreb countries led to the highest influx of migrants and refugees since the Second World War. In Syria alone, about 13,5 million people have been displaced and more than 4,7 millions have migrated to other countries. The following table describes the current situation in Europe.



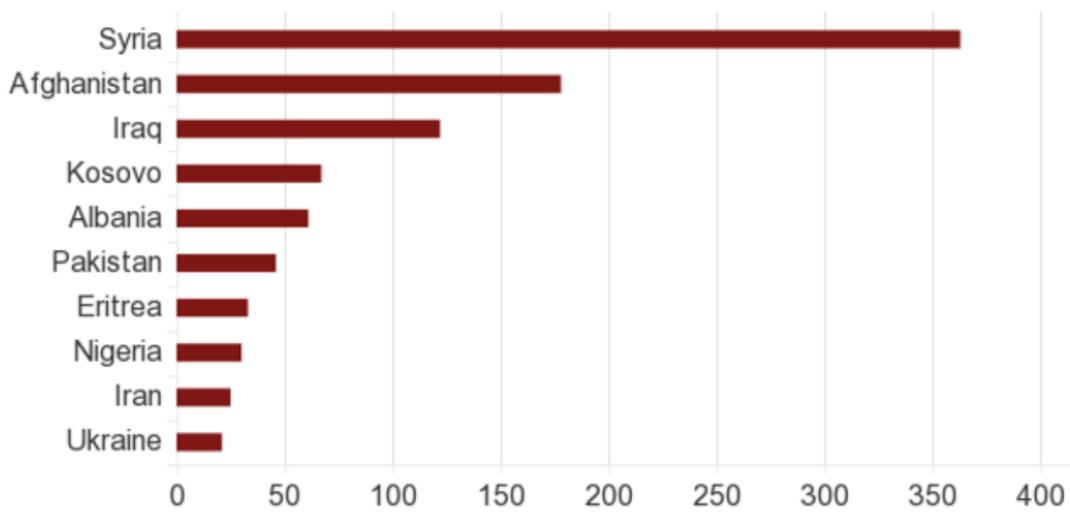


Find an interactive map of migration journeys to the European Union at:  
<https://www.hrw.org/video-photos/interactive/2015/06/19/migration-journeys-european-union>

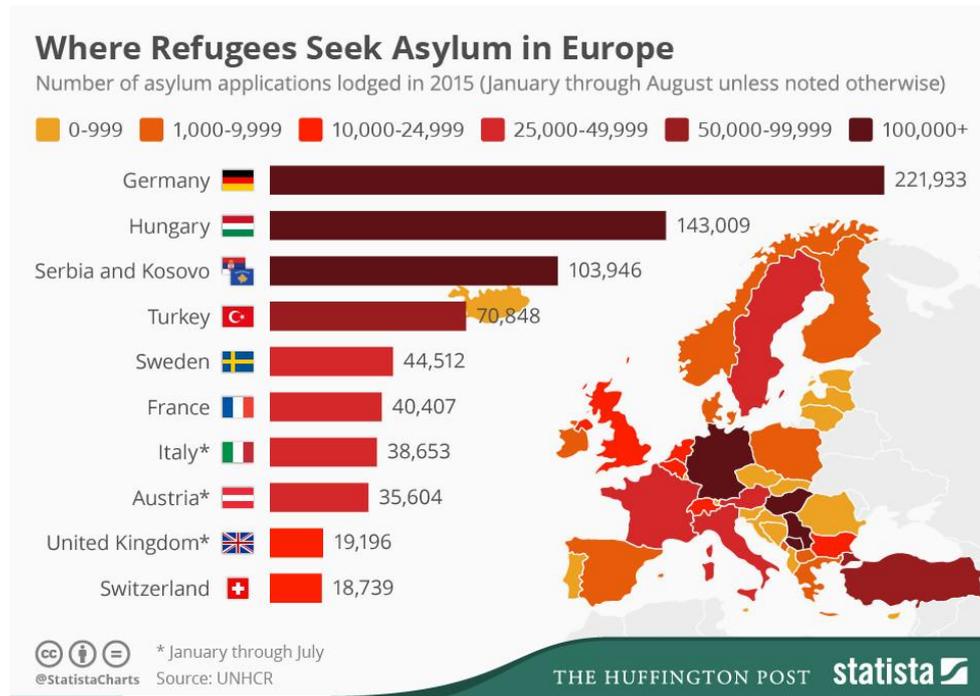
The following tables show the top origins and destinations of asylum seekers in the EU.

### Top 10 origins of people applying for asylum in the EU

First-time applications in 2015, in thousands



Source: Eurostat



In the 2015 report of Human Rights Watch the Mediterranean migration crisis is described, as well as implications from international and EU law.



[https://www.hrw.org/sites/default/files/report\\_pdf/eu0615\\_web.pdf](https://www.hrw.org/sites/default/files/report_pdf/eu0615_web.pdf)

#### Read more about migration in the 21<sup>st</sup> century in:

- <https://www.iom.int/21st-century>
- <http://www.theguardian.com/commentisfree/2015/sep/20/migrants-refugees-asylum-seekers-21st-century-trend> [*Human migration will be a defining issue of this century. How best to cope?*, Alexander Betts, 20 September 2015]
- <http://ftp.iza.org/pp108.pdf> [*Managing Immigration in the 21<sup>st</sup> century*, Bryr R. Chiswick, November 2015, IZA Policy Paper No. 108, Institute for the study of Labor - Germany]
- <http://www.asecu.gr/Seeje/issue01/martin.pdf> [*Managing International Labor Migration in the 21<sup>st</sup> Century*, Philip Martin, South Eastern Europe Journal of Economics 1 (2003) 9-18]
- [http://iei.uji.es/docs/eventos/meeting/Paper\\_Docquier.pdf](http://iei.uji.es/docs/eventos/meeting/Paper_Docquier.pdf) [*Income disparities, population and migration flows over the 21st century*, Frédéric Docquier (FNRS and IRES, Université Catholique de Louvain) Joël Machado (IRES, Université Catholique de Louvain), 2014]
- <http://www.msu.ac.zw/elearning/material/1330864594Reading%20%20international%20migration.pdf> [*International Migration in the beginning of the 21<sup>st</sup> century: Global trends and issues*, Stephen Castles, 2000, UNESCO]

## EU migration policy and legislation

A great dispute has been raised during the recent years and months of the European refugee crisis over the issue of freedom of movement between countries and the right to asylum. Actually, there is growing tension between immigration control and human rights. An expression of it can be observed particularly in the EU's continued strengthening of its border controls. In 7<sup>th</sup> March 2016, the EU-Turkey Summit resulted in the closing of the European countries borders all through the so-called 'Balkan route', thus preventing migrants and refugees of travelling from Turkey and Greece to other Central and Northern European countries in seek of asylum and permanent relocation. The EU, which proved to be totally unprepared for handling the hundreds of thousands migrants and refugees flowing to it from Middle East (mainly Syria) and Northern Africa, struggles to form a more developed and uniform external policy on immigration and asylum, but there are still many legal and political issues preventing a unanimous and lasting resolution among member states.

As a result, the integrity of the Schengen area and cooperation (a territory where free movement of persons is established and guaranteed, which was incorporated into the European Union (EU) legal framework by the Treaty of Amsterdam of 1997) seems to be at stake.

A turning point in the way European governments treat migrants' rehabilitation and asylum requests was the EU/Turkey refugee deal (statement) in 18<sup>th</sup> of March 2016. It followed an EU-Turkey Joint Action Plan which was agreed on 15 October 2015 and activated following an EU-Turkey Summit on 29 November 2015, as an effort to prevent refugees from flowing to the EU Member States.

**did you know**  A very detailed analysis of the current 'status quo' in Europe concerning the movement of persons and the treatment of asylum seekers, as well as the understanding of the notion of refugees 'reception' in various EU and non-EU countries involved in the recent refugee crisis can be found in the AIDA [Asylum Information Database] report:

*Wrong counts and closing doors: The reception of refugees and asylum seekers in Europe, AIDA, March 2016, European Council on Refugees and Exiles, available at:*

[http://www.asylumineurope.org/sites/default/files/shadow-reports/aida\\_wrong\\_counts\\_and\\_closing\\_doors.pdf](http://www.asylumineurope.org/sites/default/files/shadow-reports/aida_wrong_counts_and_closing_doors.pdf)

Some basic sources of information over EU migration policy and legislation can be found at the following links:

- [http://ec.europa.eu/immigration/who-does-what/more-information/explaining-the-rules-why-are-there-eu-rules-and-national-rules\\_en](http://ec.europa.eu/immigration/who-does-what/more-information/explaining-the-rules-why-are-there-eu-rules-and-national-rules_en) [EU IMMIGRATION PORTAL]
- [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/index_en.htm) [MIGRATION AND HOME AFFAIRS]
- <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Ajl0059> [EUR-Lex Access to European Union Law]
- [http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuld=FTU\\_5.12.3.html](http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuld=FTU_5.12.3.html) [European Parliament at your service - Immigration Policy]
- <http://europeanmigrationlaw.eu/en/#>
- <http://www.refworld.org/pdfid/4ee9b0972.pdf> [Asylum and the European Convention on Human Rights, Nuala Mole and Catherine Meredith, 2010, Council of Europe Publishing]
- <http://www.ijrcenter.org/refugee-law/> [Asylum & the Rights of Refugees, International Justice Resource Center]

### International and national migration law

The IMs should follow closely the directions of the national migration law when performing their duties. This is crucial for their effectiveness as service providers. The role of IM includes to overview the basic elements of the national migration legislation, making use of any available official sources describing it, in order to point out the main rights and obligations regulating a migrant's residence in the country.

A number of resources is listed below, for both international and national legislation, as valid of May 2016:

#### a. International law

- Migration Law Database, by IOM  
[http://imldb.iom.int/\\_layouts/15/IML.Portal/AppPages/Home.aspx](http://imldb.iom.int/_layouts/15/IML.Portal/AppPages/Home.aspx)
- Migration and International Human Rights Law - A Practitioners' Guide No. 6, Updated Edition, Geneva, 2014, available at:  
<http://www.icj.org/wp-content/uploads/2014/10/Universal-MigrationHRLaw-PG-no-6-Publications-PractitionersGuide-2014-eng.pdf>
- International Migration Law, Section 1.6, Essentials of Migration Management Volume One: Migration Management Foundations, IOM, available at:  
[http://www.rcmvs.org/documentos/IOM\\_EMM/v1/V1506\\_CM.pdf](http://www.rcmvs.org/documentos/IOM_EMM/v1/V1506_CM.pdf)

#### b. National law

##### Austria

- <https://www.help.gv.at/Portal.Node/hlpd/public/content/12/Seite.120000.html>
- <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004470>

### Belgium

- Geets, J., Pauwels, F., Wets, J., Lamberts, M., & Timmerman, C. (2006). *Nieuwe migranten en de arbeidsmarkt*. UA, OASeS.
- De Wolf, K. (2002). Pijnpunten van het Belgische asiel- en migratiebeleid: Onmacht zit in de structuren. In *Tertio : Christelijk Opinieweekblad*, Jrg. 3, nr. 147, pp. 3-4.
- Stockmans, P. & Perrin, N. (2008). *Belgische debatten voor een migratiebeleid. De actoren in kaart gebracht*. Koning Boudewijnstichting.

### Germany

- Zuwanderungsgesetz:  
[http://www.bmi.bund.de/SharedDocs/Gesetzestexte/DE/Zuwanderungsgesetz.pdf?\\_\\_blob=publicationFile](http://www.bmi.bund.de/SharedDocs/Gesetzestexte/DE/Zuwanderungsgesetz.pdf?__blob=publicationFile)
- Migrationsrecht.net - Informationsportal zum Ausländerrecht:  
<http://www.migrationsrecht.net/>

### Greece

- <https://www.e-nomothesia.gr/law-news/neos-nomos-43752016-gia-prosphugiko.html>
- [http://www.ypes.gr/UserFiles/f0ff9297-f516-40ff-a70e-eca84e2ec9b9/ethniki\\_stratigiki.pdf](http://www.ypes.gr/UserFiles/f0ff9297-f516-40ff-a70e-eca84e2ec9b9/ethniki_stratigiki.pdf)

### Italy

- Testo unico sull'immigrazione  
[http://www.meltingpot.org/IMG/pdf/TUI\\_VERSIONE\\_AGGIORNATA\\_08\\_2012.pdf](http://www.meltingpot.org/IMG/pdf/TUI_VERSIONE_AGGIORNATA_08_2012.pdf)
- <http://www.interno.gov.it/it/temi/immigrazione-e-asilo/argomenti#block-menu-menu-menu-tab-tema>

### Portugal

- Plano Estratégico para as Migrações 2015-2020:  
[http://jrspportugal.pt/images/memos/20150125-madr-pem-consulta-publica%20\(1\).pdf](http://jrspportugal.pt/images/memos/20150125-madr-pem-consulta-publica%20(1).pdf)
- Plano Municipal para a Integração de Imigrantes de Lisboa 2015-2017: Vol 1:  
[http://observatorio-lisboa.eapn.pt/ficheiro/Plano-municipal-para-a-integra%C3%A7%C3%A3o-de-imigrantes-de-Lisboa\\_2015\\_17.pdf](http://observatorio-lisboa.eapn.pt/ficheiro/Plano-municipal-para-a-integra%C3%A7%C3%A3o-de-imigrantes-de-Lisboa_2015_17.pdf)

## 1.5. Selected reading

### English

#### Books

- *Exodus: Immigration and Multiculturalism in the 21st Century*. Paul Collier, 2013, Penguin Books.
- *Migration in the 21st Century: Rights, Outcomes and Policy*, Regional Studies Association, edited by Kim Korinek, Thomas N. Maloney, 2011, Routledge

#### Links

- AIDA - Asylum Information Database, <http://www.asylumineurope.org/>
- CIS Assessment Induction Workbook - Standard Four: Equality and Inclusion [http://www.cis-assessment.co.uk/docs/pdf/wb/St4\\_wkb.pdf](http://www.cis-assessment.co.uk/docs/pdf/wb/St4_wkb.pdf)

### Dutch

#### Books

- Timmerman, C., Mahieu, R., Levrau, F., & Vanheule, D. (Red.) (2015). *Intra-Europese migratie en mobiliteit: Andere tijden, nieuwe wegen?*. Universitaire Pers Leuven.
- Geldof D. (2014). *Superdiversiteit*. Leuven: Acco.
- De Groof, M.; Bianchi, J.; Moulin, D.; Taeymans, S.; Enejari, K.; Wirtgen, M. & Van Audenhove, C. (2010). *ITHACA-Een monitoring van de mensenrechten en algemene gezondheidszorg in België*.

#### Links

- De Rijck, B. (2009). Het Belgische Arbeidsmigratiebeleid en zijn determinanten na Wereldoorlog II. Geraadpleegd op 3 juni 2016 via [http://lib.ugent.be/fulltxt/RUG01/001/367/790/RUG01-001367790\\_2010\\_0001\\_AC.pdf](http://lib.ugent.be/fulltxt/RUG01/001/367/790/RUG01-001367790_2010_0001_AC.pdf)
- Vlaamse migratie en integratiemonitor. Geraadpleegd op 3 juni via <http://www4.vlaanderen.be/sites/svr/Pages/2016-01-06-vmim2015.aspx>
- Hanseeuw, L. (2012). *België, immigratienatie*. Itinera Institute. Geraadpleegd op 25/04/2016 via [http://statbel.fgov.be/nl/binaries/1678\\_nl%20Belgi%C3%AB,%20immigratienatie.%20Statistieken%20en%20evoluties\\_tcm325-179500.pdf](http://statbel.fgov.be/nl/binaries/1678_nl%20Belgi%C3%AB,%20immigratienatie.%20Statistieken%20en%20evoluties_tcm325-179500.pdf)

## German

### Books

- *Ausländerrecht, Migrations- und Flüchtlingsrecht: Ausgabe 2016/I* (2016, Walhalla Fachredaktion)
- *Deutschland: Erste Informationen für Flüchtlinge* (2015, Thiede; van Volxem)
- *Geschichte der deutschen Migration: Vom Mittelalter bis heute* (2010, Hoerder)
- *Enzyklopädie Migration in Europa: Vom 17. Jahrhundert bis zur Gegenwart* (2007, Bade)

### Links

- Bundesamt für Migration und Flüchtlinge:  
<http://www.bamf.de/DE/Startseite/startseite-node.html>
- Bundesamt für Migration und Flüchtlinge, statistics  
<http://www.bamf.de/DE/Infothek/Statistiken/statistiken-node.html>
- Bundesministerium des Innern, Migration und Integration:  
[http://www.bmi.bund.de/DE/Themen/Migration-Integration/migration-integration\\_node.html](http://www.bmi.bund.de/DE/Themen/Migration-Integration/migration-integration_node.html)

## Greek

### Books

- *Μετανάστευση και διεθνές δίκαιο ανθρωπίνων δικαιωμάτων. Συλλογή διεθνούς δικαίου και νομολογία*. International Commission of Jurists, Γενεύη, 2014. In pdf.

## Italian

### Books

- *2° rapporto sulla protezione internazionale*. SPRAR - System for the protection of asylum seekers and refugees. P.p. 175 - 223. Available in pdf at <http://www.anci.it/Contenuti/Allegati/Rapp%20Prot%20Int%202015%20-%20RAPPORTO.pdf>

### Links

- *Dossier Statistico Immigrazione 2014*.  
[http://www.programmaintegra.it/wp/wp-content/uploads/2015/11/Scheda-Dossier-2015\\_Statistico.pdf](http://www.programmaintegra.it/wp/wp-content/uploads/2015/11/Scheda-Dossier-2015_Statistico.pdf)
- <http://www.meltingpot.org/>
- <http://www.programmaintegra.it/wp/category/normativa/>
- <http://www.asgi.it/tematica/documenti-asgi/>

## Polish

### Books

- Dąbrowski Paweł, *Cudzoziemiec niepożądany w polskim prawie o cudzoziemcach*, Wydawnictwa Uniwersytetu Warszawskiego. Warszawa 2011.
- *Ustawa o cudzoziemcach*. Komentarz, red. Chlebny Jacek, C.H. BECK 2015
- Cebula R., *Mediacja w polskim prawie cywilnym* (w:) *Mediacje w polskim systemie prawa*, Warszawa 2011.

### Links

- [https://www.um.warszawa.pl/sites/default/files/inspirator\\_rownosciowy\\_wersja\\_rozszerzona20.02.2013.pdf](https://www.um.warszawa.pl/sites/default/files/inspirator_rownosciowy_wersja_rozszerzona20.02.2013.pdf)
- <http://www.bibliotekacyfrowa.pl/Content/43442/002.pdf>

## Portuguese

### Books

- Marques, M. (Coord.) 2014. *Lisboa Multicultural*. Fim de Século - Edições, Lisboa
- Farmhouse, Rosário (2010). *Interculturalidade: uma realidade em Portugal?*. Revista n.º 83 de Agosto de 2010, Lisboa. ACIDI

### Links

- Silva, Ana Maria; Carvalho, Maria de Lurdes & Aparicio, Miriam (2016). *Formação, profissionalização e identidade dos mediadores sociais*: <https://repositorium.sdum.uminho.pt/handle/1822/41086>
- Rego, Conceição; Mendes, Maria Filomena; Rebelo, José & Magalhães, Graça (2010). *Perfil dos imigrantes em portugal: por países de origem e regiões de destino*. Estudos Regionais, nº24: <http://www.apdr.pt/siterper/numeros/RPER24/24.2.pdf>
- Grassi, Marzia & Melo, Daniel (2007). *Portugal na Europa e a Questão Migratória: Associativismo, Identidade e Políticas Públicas de Integração*. Working Paper, 4, Lisboa, ICS, Universidade de Lisboa: [http://www.ics.ul.pt/publicacoes/workingpapers/wp2007/wp2007\\_4.pdf](http://www.ics.ul.pt/publicacoes/workingpapers/wp2007/wp2007_4.pdf)
- ACM - <http://www.acm.gov.pt/>