



STRUCTURING EVIDENCE-BASED REGULATION OF LABOUR MIGRATION

Setting quotas, selection criteria, and shortage lists in Europe

Expert Commissions and Migration Policy Making

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Outline of presentation

- Growing complexity of selection mechanisms
- Implementation of mechanisms requires setting within parameters
- Institutional constraints and solutions
- Evidence used
- Some examples from European countries
- Conclusion



Growing complexity of selection mechanisms

- Policy objective: fill labour needs which cannot effectively and efficiently be met locally in a reasonable timeframe, without adverse effects on residents...
- ...and communicate to public opinion that labour migration is justified and under control
- Basic mechanism: employers offer a job, and the position (restrictions apply) is subject to a labour market test
- Trend towards multiple selection criteria and limits on admission
 - Caps (Italy, Portugal, Spain, UK, Switzerland, Estonia, Austria)
 - Points-based systems (UK, Netherlands, Denmark, Austria)
 - Salary thresholds (Ireland, Netherlands, EU Blue Card)
 - Occupational shortage lists (Spain, UK, Germany, Denmark, Sweden, Lithuania) – usually for LMT exemptions
 - Occupational exclusion lists (Ireland, Portugal)



Implementation of mechanisms requires setting within parameters

Countries are faced with these political and technical questions:

- How to determine caps for different categories and assign quotas within caps?
- How to assign weight to different criteria in points systems?
- Where to set salary thresholds?
- How to draw up shortage occupation lists?



Institutional Constraints

- Existing stakeholders (Ministerial structures, tradition of consultation with social partners, outsourcing of evaluation...)
- Available data (labour force surveys available in all European countries, employment agencies collect vacancy and job-seeker, data, linked registers in Nordic countries bring together separate databases, etc.)



Institutional Solutions

Solutions are both political and technical

- Construct consensus within a policy-making model
- Work within institutional constraints, competences and competencies
- Maintain technocratic credibility within the constraints of existing and available data

The most common European solutions

- Maintain control at the executive political-administrative level
- Identify and utilise quantitative measures
- Include consultation phase with relevant stakeholders
- Conduct *ad hoc* research internally and through tenders to outside consultancies



Evidence used...

- Range of data from hard to soft
- Vacancy and employment data
 - Shortage list in France
- Existing employment agency shortage indices
 - Sweden, Germany
- Commissioned/internal research on outcomes of labour migrants
 - Danish Green Card, German skilled worker permit



Shortage occupation list: Sweden

- Based on Occupational Barometer
 - Produced by the Swedish employment agency
 - Meant for career guidance, therefore contains few elementary occupations
 - Maps 200 occupations (4-digit) through survey to all local branches, which rank expected shortage (next year) and change in shortage (next year)
 - Recalculated to produce weighted national shortage list with a 5-point scale
 - Informally discussed with social partners
 - All occupations scoring 3.3 (between *shortage* and *severe shortage*) are subjected to additional comments from social partners and sent to the Migration Board
 - Revised every six months
 - Plays marginal role in system.

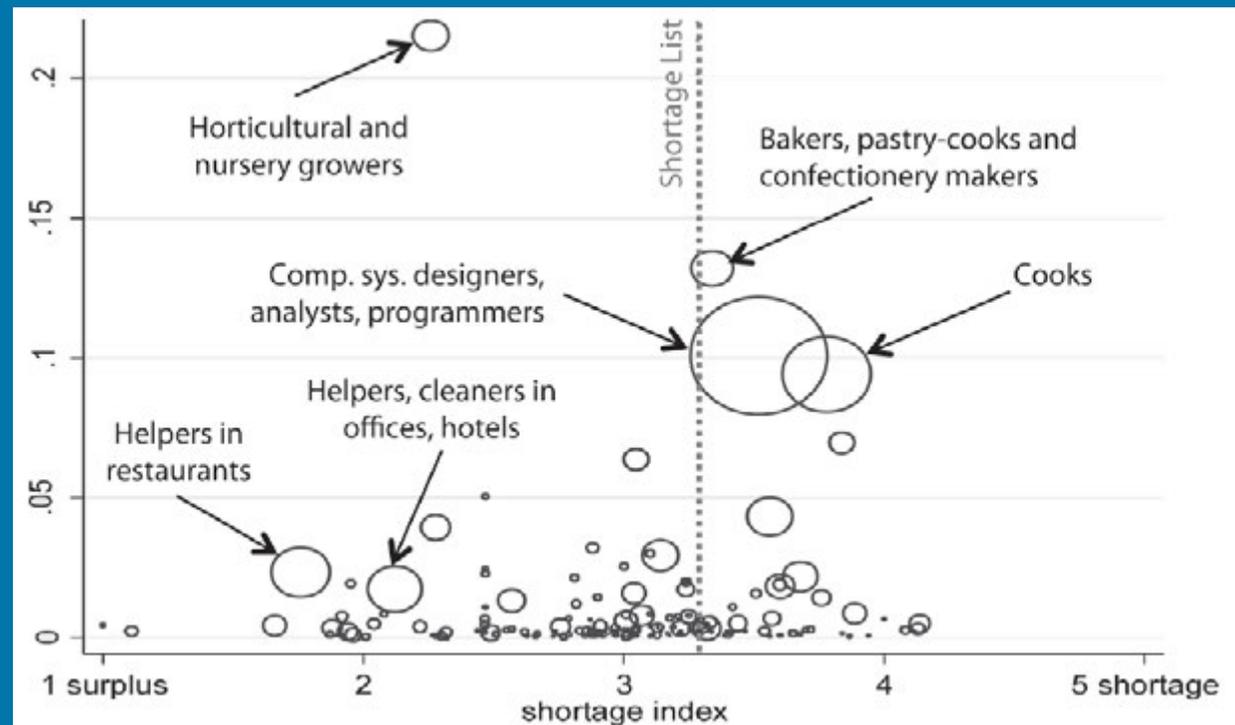


Shortage occupation list: Sweden (cont.)

- Issuance on the grounds of the shortage list represents less than 0.4% of new permits...
- ... even if a large share of labour migrants are recruited for shortage occupations

Occupations of labour migrants, by cumulative entries 2009-2011 relative to total employment 2009, according to surplus/shortage ranking on the Occupational Barometer

The size of the circle represents the number of entries





Shortage occupation list: France

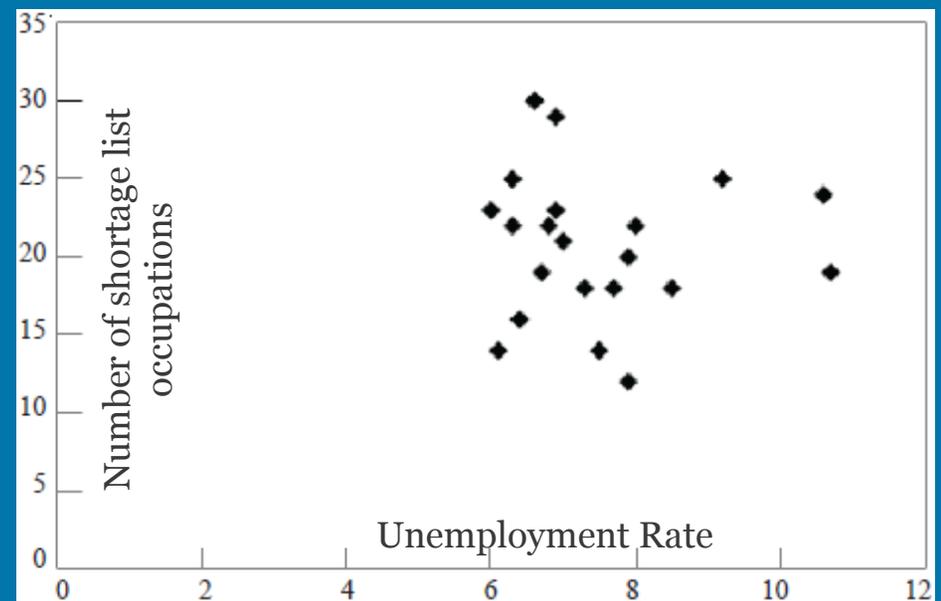
- Several different shortage occupation lists
- Established by Ministry of Immigration based on regional vacancy and unemployment data from employment agencies
 - Initial list based on vacancy vs. job-seeker ratio (0.9, lifted to 1.0)
 - Exclusion of unqualified occupations and those for which training is rapid
 - Discretionary analysis of occupations to determine “reality” of shortage and “likely continuation” of the shortage, based on DARES
 - Consultation phase with social partners
- Lists revised in 2008, 2009, 2012, rather than annually



Shortage occupation list: France (cont.)

- Discussion of whether the list represents shortage or not
- Lists in conjunction with bilateral agreements and for citizens of new EU member countries

Unemployment rate vs. number of occupations on regional shortage list, 2008



Source: Saint Paul G. (2009), *Immigration, qualifications et marché du travail*, Conseil d'Analyse Économique



Shortage occupation list: Denmark

- Introduced in 2002
- Agency for Retention and Recruitment (employment agency) asks a number of employers, through the national labour market authority, if they have had difficulty finding employees in a specific profession.
- If more than one employer in a region has had problems, and unemployment in the occupation group is not high, the occupation is included in the list.
- 37 occupations in 2013, all (except IT) are at least BA-level
- Largely supplanted in practice by a salary-threshold permit in 2008. Covers only 2% of labour migration permits...
- ... yet some professional associations (nurses, teachers, lawyers) continue to publicly contest inclusion of their occupations



Spain: shortage occupation list

- Catalogue of hard-to-find occupations introduced in 2005
- Produced each quarter by the central office of the Public Employment Service (PES)
 - Initial version sent to regional agencies based on general occupational employment data (8-digit)
 - Regions consult with social partners and revise the list based on regional vacancy data (submitted to the PES)
 - Central PES re-elaborates final draft
 - Final draft reviewed by the tri-partite commission (social partners and Ministry of Employment/Immigration).
- New procedure from 2011 changes and restricts procedures, excluding occupations for which retraining is possible and using 4-digit classification in most cases
- New, much stricter, LMT makes list more important



Caps and quotas: Italy

- Cap (since 1998) apportioned by province, nationality, sector
- Separate caps for seasonal, contract, self-employment work, changes of status, etc.
- Based “on general lines” on the 3-year planning document
 - Planning document drawn up by the Prime Minister’s office, following consultation with ministries involved, NLEC, Regions and Municipalities, social partners, civil society
 - Approved by the Prime Minister’s Office, submitted to Parliamentary Commissions
 - Must take into account different comments
 - Published as a Presidential Decree in the Official Journal
 - Does not contain actual numbers, but includes a review of past flows, labour market data, demographic forecasts, employment forecasts, employer surveys, etc.
 - Often delayed; never approved (2007-2009), leaving governments a free hand to set quotas bypassing mandatory consultation mechanisms
- Administrative shortcomings have prevented the cap mechanism from functioning as planned



Other empirical means for setting mechanisms

- Population-based caps: Estonia
- Working-age population-based caps: Austria
- Floating caps based on previous year's applications: Hungary



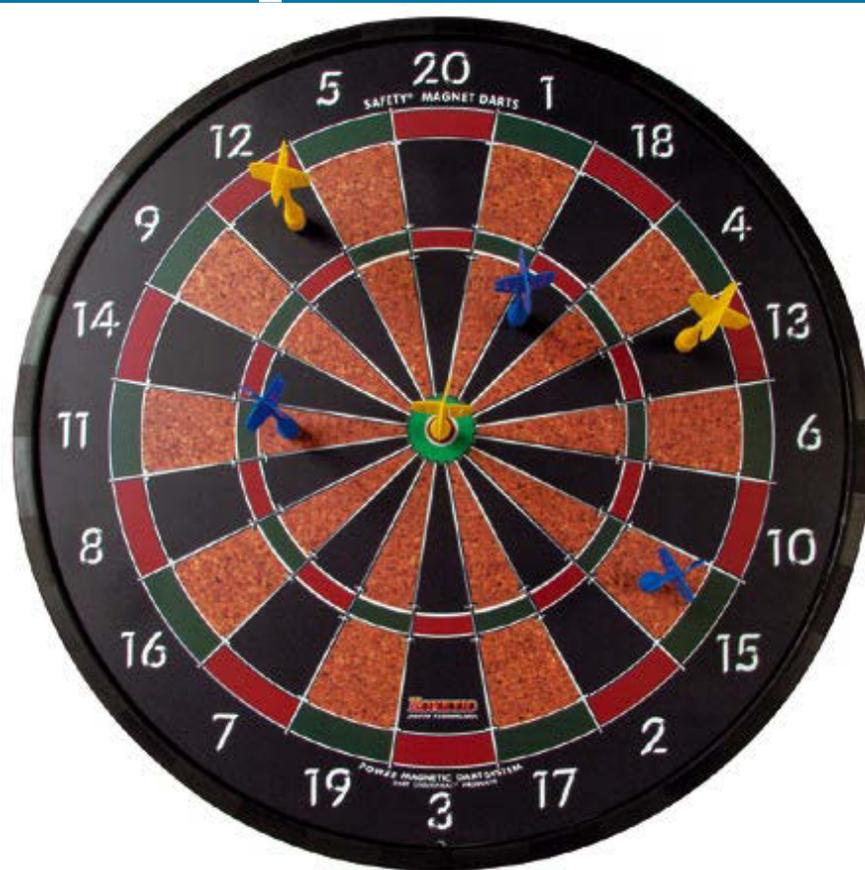
A perspective from Boswell (2009)...

- “technocratic modes of justification”
invoke expert knowledge in
 - argumentation (process of persuasion) and
 - authoritative determination (an appeal to independent criteria of settlement)
- in areas
 - Characterised by risk (decisions may cause harm, but potential cannot be calculated)
 - Of “societal steering”, where broad political objectives are largely shared, but the tools for achieving these goals are contested



Technocratic modes of justification

- An alternative to other decision-making processes, from political to...





Conclusion

- Most empirically-based labour migration mechanisms in Europe use expertise which is internal to the public administration
- Consultation is the rule, generally with social partners
- Decisions often involve political responsibility and accountability
- Expertise-based mechanisms provide a “technocratic justification” for policies...
- ...but expertise is nonetheless subject to contestation



Thank you for your attention

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