

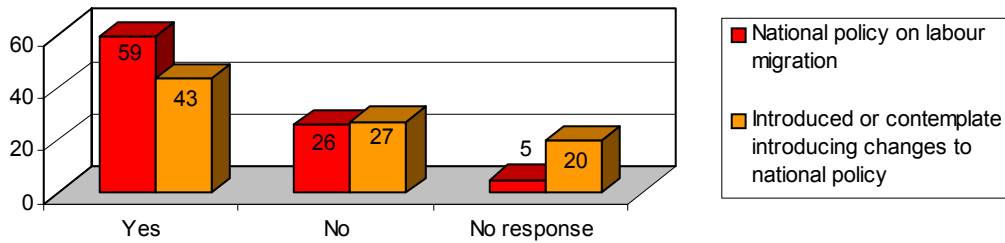
## Main results of the Survey

### Policies, laws and structures

#### National labour migration policies

- Question 1A.** Does your Government have a national policy on international labour migration?
- Question 1B.** Indicate if you have recently introduced or are contemplating introducing any changes in the near future to this national policy?

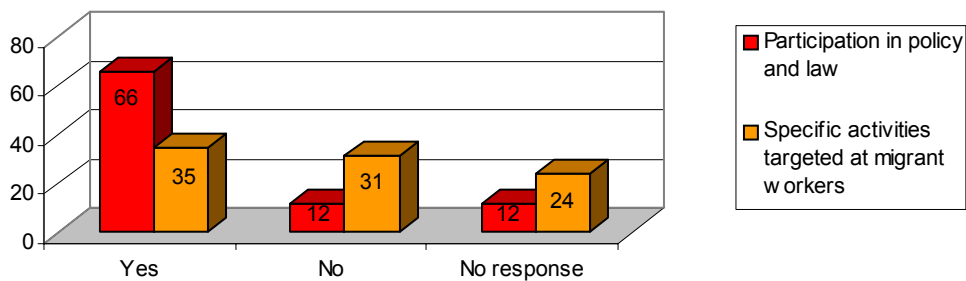
#### National Policy



#### Tripartite consultation

- Question 2.** Are representative employers' or workers' organizations taking part in the formulation of labour migration policies, laws and regulations?
- Question 3.** Do any representative employers' or workers' organizations carry out specific activities or services targeted at migrant workers?

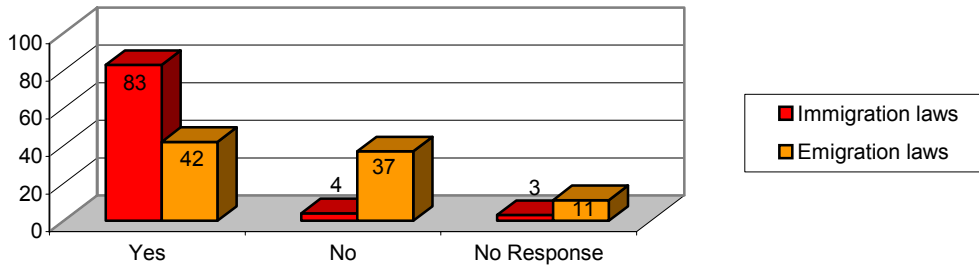
#### Participation by employers' and workers' organisations



## Laws and regulations on migration for employment

- Question 4A.** Do you have laws and regulations on migration for employment in your country (immigration)?
- Question 4B.** Do you have laws and regulations on migration for employment from your country (emigration)?

### Laws and regulations



- Question 39.** With respect to migration for employment from your country, do you have specific provisions regulating the following:

*Table 1. Specific legal provisions for emigration*

Q. 39		Yes	No	No response
A	Contracts and contractual conditions of migrant workers	35	31	24
B	Mandatory recruitment through public employment offices	15	50	25
C	Direct recruitment by employers	28	37	25
D	Recruitment through private recruitment agencies	32	35	23
E	Licensing of private recruitment agencies	32	35	23
F	Prosecution against recruitment malpractices	36	25	29

- Question 5.** Are questions related to labour migration provided for expressly or through practice, in any of the following laws or agreements in your country?

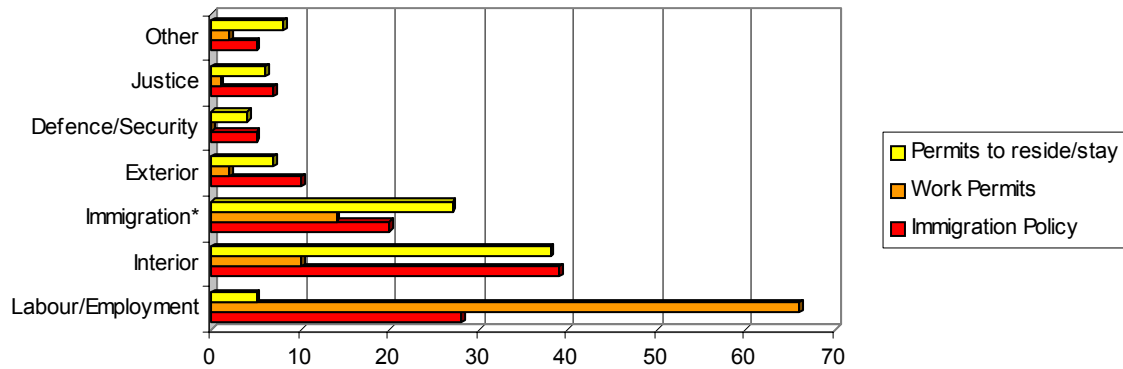
*Table 2. Laws and agreements regulating labour migration expressly or through practice*

Q.5		Yes	No	No response
A	Constitution	44	28	18
B	Labour Law	68	12	10
C	Employment Law	63	12	15
D	Human rights law	43	20	27
E	Social security law	60	13	17
F	Equality or non-discrimination law	46	17	27
G	Immigration law	68	8	14
H	Anti-trafficking law	38	25	27
I	Anti-smuggling law	37	25	28
J	Criminal law	50	18	22
K	Collective agreements	26	36	28

## Competent authorities

- Question 8.** Please indicate the name of the competent national authority(ies) engaged in the implementation of matters relating to:
- A.** Immigration policy
  - B.** Work permits
  - C.** Permits to reside/stay

### Competent Authorities/Ministries responsible for migration



\* The responses either indicated that this was a Ministry in itself or they did not indicate the Ministry responsible for the immigration service/department.

- Question 38.** Do you have a competent authority(ies) specifically placed in charge of labour emigration? If yes, please specify if it exercises the following functions and powers:

**Table 3. Competent emigration authorities**

Q. 38		Yes	No	No response
38	Competent authority(ies) specifically placed in charge of labour emigration	46	28	16
<b>Functions and powers:</b>				
A	Formulate policies regarding the employment of nationals in foreign countries	38	8	44
B	Enter into agreements with foreign employers	30	17	43
C	Authorize or license natural or legal persons to engage in recruitment	34	14	42
D	Recruit nationals for employment abroad	29	15	46
E	Set minimum standards for employment contracts	37	8	45
F	Approve work contracts whose terms meet standards and regulations	34	10	46
G	Prosecute violators of recruitment regulations	36	8	46
H	Collect fees	15	25	50
I	Arbitrate disputes between migrant workers and their foreign employers or agents	25	17	48
J	Campaign against trafficking and smuggling	36	7	47
K	Provide pre-departure information on rights, living and working conditions for migrant workers in destination countries	38	5	47
L	Collect information on malpractices and violations of rights of migrant workers in host countries	34	9	47
M	Provide assistance to migrant workers in host countries and upon return	35	11	44

### Administrative and legal assistance

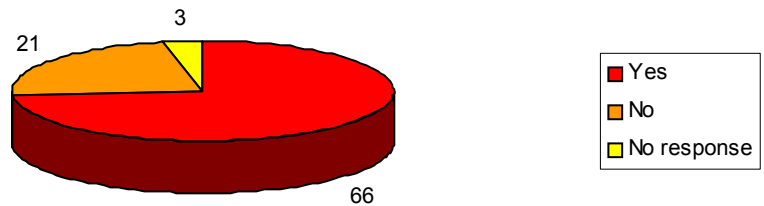
**Question 6.** In order to assist migrant workers in asserting their rights have you done any of the following?

*Table 4. Administrative and legal assistance*

Q. 6		Yes	No	No response
A	Set up a programme or service for such a purpose	53	28	9
B	Developed and disseminated information on national labour standards and institutions	62	21	7
C	Provided translations of relevant information in different languages	51	31	8

### Bilateral agreements

**Question 7.** Have you entered into any bilateral or multilateral labour or other agreements with other countries covering the recruitment, admission, employment, and social protection of migrant workers?



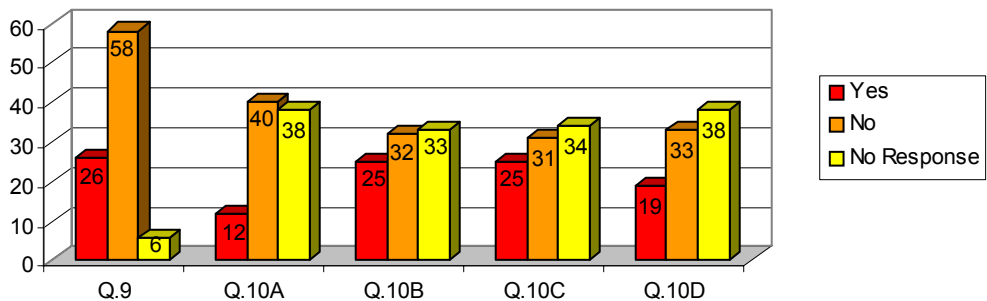
### Admission

**Question 9.** Are quotas or limits set on the total number of migrant workers that may be admitted during a particular period (for example, a calendar year)?

**Question 10.** Are quotas or limits set on the total number of migrant workers who may be admitted during a particular period for:

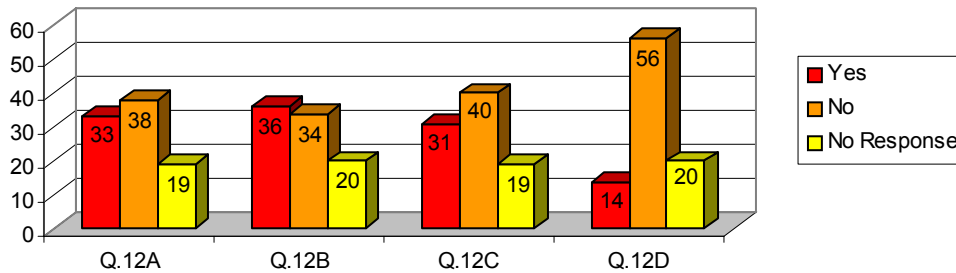
- A.** Selected countries of origin?
- B.** Certain branches of economic activity?
- C.** Specific occupations?
- D.** Migrant workers with particular levels of skills?

#### *Quotas and limits*



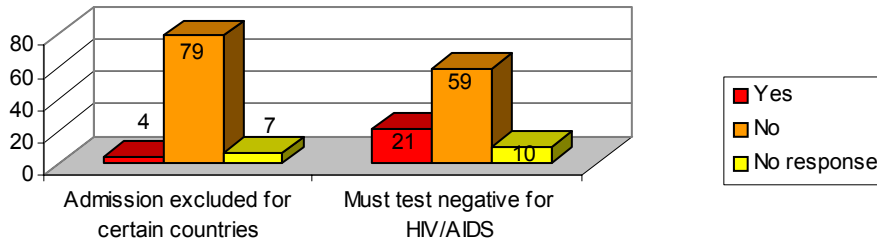
*Preferential treatment*

- Question 12.** Do you allow for preferential treatment in terms of admission for:
- A.** Migrant workers from specific countries?
  - B.** Migrant workers from countries with whom you have entered into bilateral or multilateral or other agreements concerning migrant workers?
  - C.** Migrant workers from countries with whom you have formed an economic union or political association?
  - D.** Migrant workers that satisfy other criteria such as specific ethnic origin or ancestry



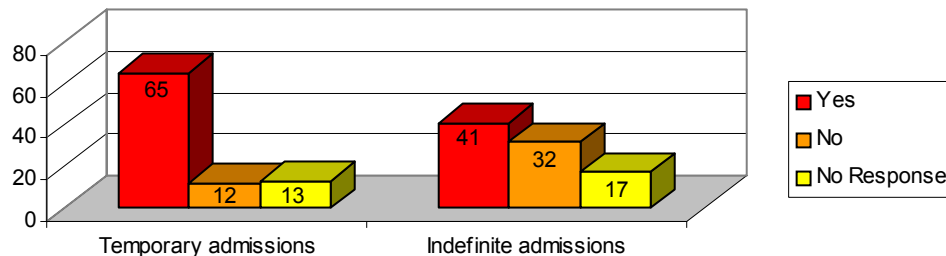
*Grounds for exclusion*

- Question 13.** Is admission excluded for migrant workers originating from any specific countries?
- Question 14.** Is there a requirement that migrant workers test negatively for HIV/AIDS in order to gain admission into your country?



*Admission categories*

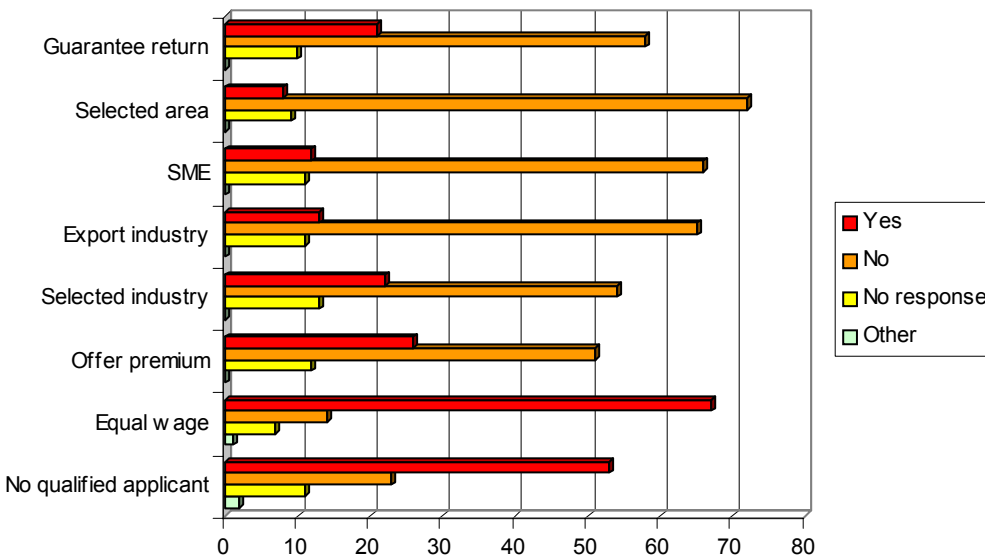
- Question 15.** Does your country provide for different admission categories for the purpose of employment?



## Recruitment

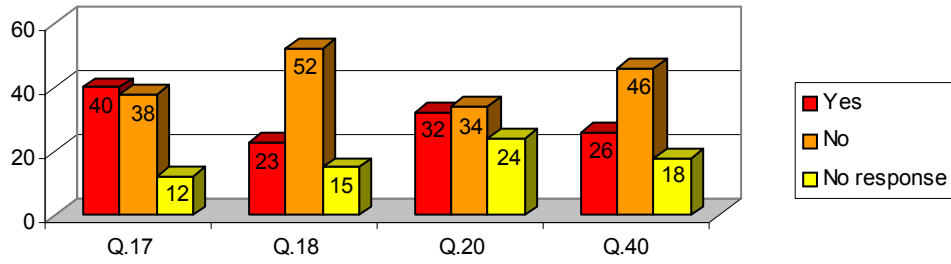
- Question 16.** Please indicate the conditions that an employer in your country has to meet in order to be allowed to employ migrant workers
- A.** Must demonstrate a lack of qualified applicants \_\_\_ weeks after announcement of job offer
  - B.** Must offer to migrant workers a wage no less than that offered to nationals
  - C.** Must offer migrant workers a premium over wage offered to nationals
  - D.** Must be willing to pay a migrant worker's levy or tax
  - E.** Must be in a selected or priority industry/branch of economic activity
  - F.** Must qualify as an export industry/branch of economic activity
  - G.** Must qualify as a small or medium-sized enterprise
  - H.** Must be in a priority geographic area or region
  - I.** Must put up a deposit to guarantee return of migrant worker

**Economic needs test**



- Question 17.** Can private recruitment agencies be granted authorization to bring in migrant workers?
- Question 18.** Are private recruitment agencies allowed to charge migrant workers recruitment fees to cover services?
- Question 20.** In addition to legal sanctions and penalties, has your Government instituted any other special measures – for example collaborations with origin countries – to combat recruitment malpractices?
- Question 40.** Are private recruitment agencies allowed to charge migrant workers placement fees?

**Private recruitment agencies**



**Rights and benefits**

**Question 21.** Please indicate whether nationals as well as migrant workers (regular and irregular) in your country are entitled to the rights and benefits listed

*Table 5. Rights and benefits*

Categories of workers that receive the following rights and benefits	All workers <sup>10</sup>	Nationals, and regular MW <sup>11</sup>	Nationals and Permanent residents	Temporary MW	Nationals only	Replied "no" to all categories of workers	No response or other
Form or join workers' organizations	27	26	9	-	14	0	14
Bargain collectively	25	31	8	-	12	1	13
Protection against forced labour	45	23	4	-	5	1	12
Protection against discrimination at work	42	28	3	-	5	1	11
Minimum age of employment	41	28	4	1	5	1	10
Equal treatment with national workers in respect of wages	35	32	4	-	4	1	14
Equal treatment with national workers in respect of minimum wages	37	31	2	2	4	0	14
Join a social protection scheme	24	35	7	-	9	1	14
Protection against sexual harassment	46	20	5	1	4	0	14
Protection against ethnic and racial harassment	44	22	4	-	5	1	14
Access to training	18	40	10	-	7	1	14
Access free public medical/health services	22	24	8	5	11	1	19
Free housing (e.g. for agricultural workers)	9	15	2	3	9	20	32
Accompanied by family members	14	41	9	2	6	1	17
Public schooling for their children	28	26	11	-	11	1	13
Vote in local/national elections	2	4	15	-	49	0	20
Access to legal proceedings in a language they understand	42	19	3	-	7	1	18
Adequate prevention of occupational accidents or diseases	42	27	4	-	4	1	12

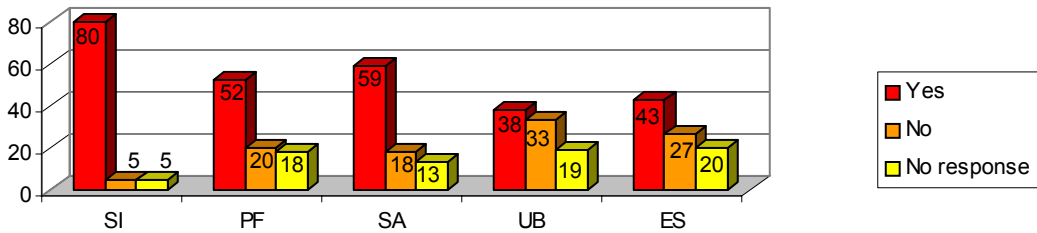
<sup>10</sup> Includes irregular migrant workers.

<sup>11</sup> Permanent and temporary migrant workers

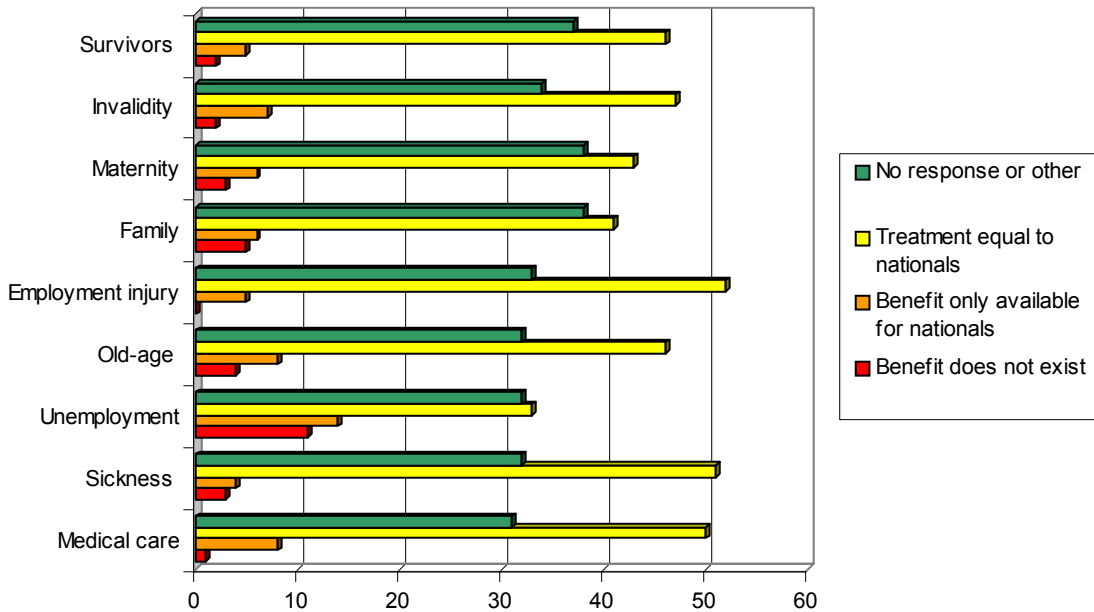
## Social protection

- **Question 22.** Do you have any of the following systems of social protection in your country?
- A. Social insurance (SI), i.e. contributory schemes
  - B. Provident funds or mandatory savings schemes (PF)
  - C. Social assistance (SA), financed from taxes for those with low income or means
  - D. Universal benefits (UB) financed from taxes and usually residency based
  - E. Schemes financed by employers only (ES)
- **Question 23.** Are migrant workers entitled to:
- A. Maintain their acquired rights with respect to long-term benefits (old-age benefit, invalidity, survivors' benefit)? (a) only if they stay in the country; or (b) regardless if they stay in your country or not.
  - B. Accumulate rights in situations where work is carried out in different countries over a period of time

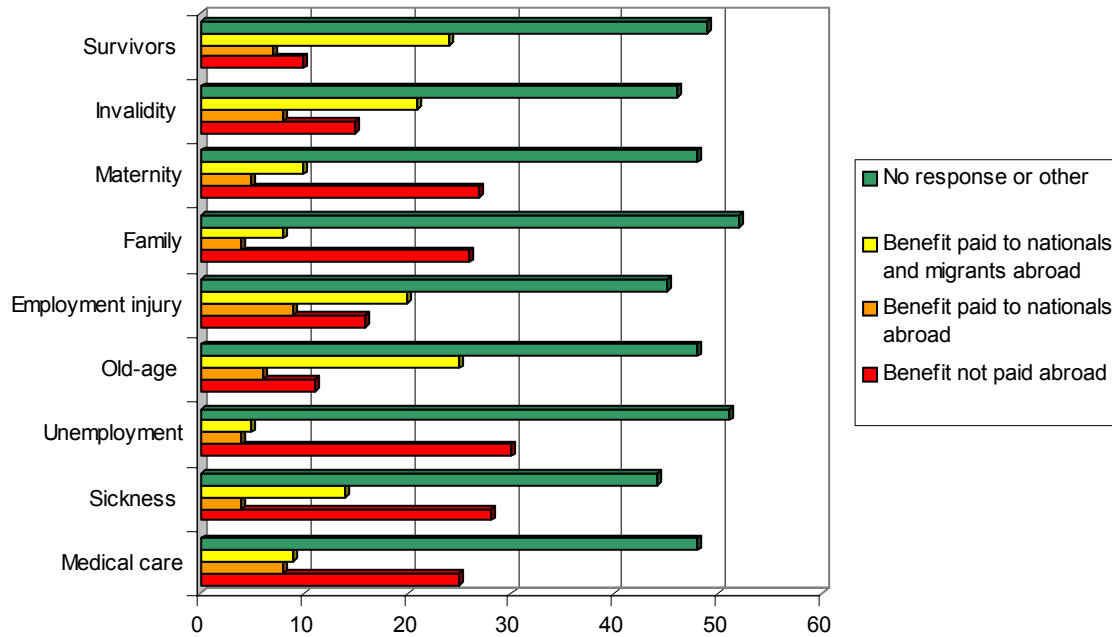
### Systems of social protection



### Scope and coverage of national social security benefits



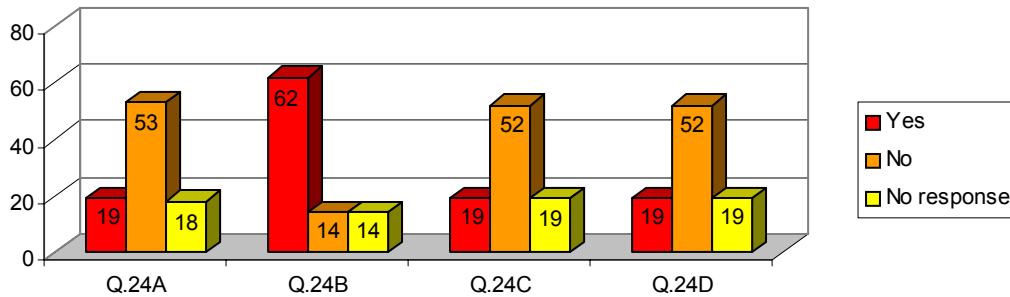
**Payment of benefits to beneficiaries residing abroad**



**Occupational mobility**

- **Question 24.** Are there any restrictions regarding the occupational mobility of migrant workers (i.e. on the right of migrant workers to accept offers of employment by a person or entities other than those who arrange the migrant workers' admission into the country)?
- A. Change of employer not allowed under any circumstance
  - B. Change of employer allowed subject to prior approval by competent authority
  - C. Change of employer allowed at any time if in the same branch of economic activity
  - D. Change of employer allowed only after certain years of legal employment

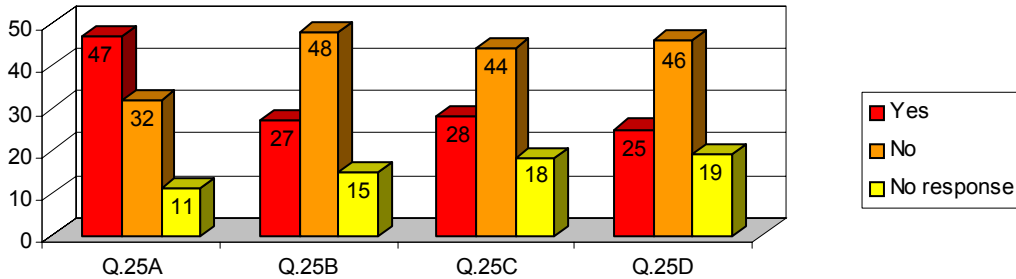
**Occupational mobility**



### Termination of employment

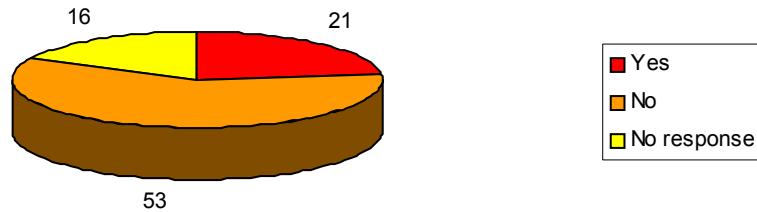
- **Question 25.** Are migrant workers who lose their employment through no fault of their own, prior to the termination of their contract:
- A. Allowed to stay and seek other employment?
  - B. Assisted in finding other employment?
  - C. Required immediately to return to country of origin?
  - D. Given separation pay and sent home?

#### Loss of employment



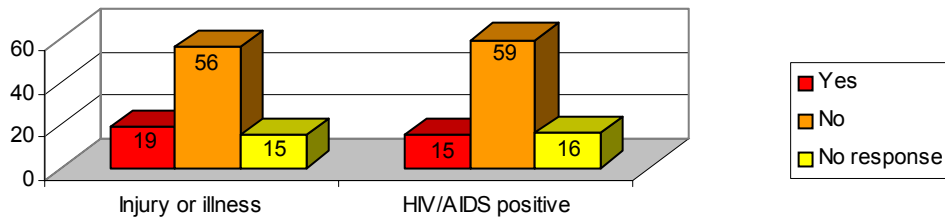
- **Question 26.** Upon regular termination of their contract are temporary or guest migrant workers allowed to remain in your country to seek other employment?

#### Migrant workers allowed to remain in country to seek other employment upon regular termination



- **Question 27.** Are the following considered valid grounds for termination of employment of migrant workers?
- A. Injury or illness
  - B. Testing positively for HIV/AIDS

#### Valid grounds for termination of employment



## Monitoring and inspection

- Question 28.** Does your Government monitor the conditions of employment of migrant workers? If yes, through which means [*Table 6*]
- Question 29A.** Does your regular labour inspection system include special procedures for monitoring migrant workers and their working conditions?
- Question 29B.** Please indicate whether these procedures are intended to determine if the situation of migrant workers is in compliance with any or all of the following national labour standards [*Table 7*]
- Question 30.** Are special inspections conducted in case of complaints by migrant workers, such as by victims of trafficking or by foreign domestic helpers?

*Table 6. Means through which member States monitor the conditions of employment of migrant workers*

<b>Q.28</b>		<b>Yes</b>	<b>No</b>	<b>No response</b>
A	General labour inspection	77	2	11
B	Reports of competent authority in charge of issues regarding migrant workers	57	9	24
C	Complaints received from the workers themselves	69	6	15
D	Reports from local administrative bodies	56	13	21
E	Reports from trade unions or other workers' organisations	59	13	18
F	Reports from employers or employers' organisations	57	13	20
G	News Media	55	15	20
H	Reports from NGOs	51	16	23

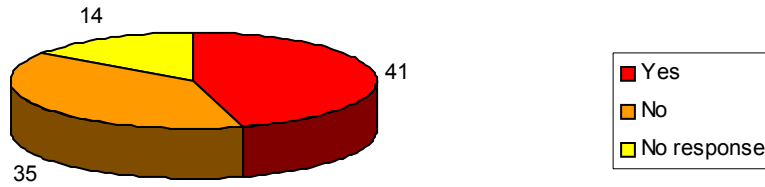
*Table 7. Special procedures for monitoring migrant workers are intended to determine situation of migrant workers with respect to:*

<b>Q.29B</b>		<b>Yes</b>	<b>No</b>	<b>No response</b>
a.	Non-discrimination	58	5	27
b.	Minimum age for employment	60	4	26
c.	Prohibitions against physical/sexual abuse/harassment	56	7	27
d.	Remuneration according to minimum wage	62	3	25
e.	Payment of salaries according to contract	58	4	28
f.	Prohibition against wage reductions in excess of that allowed in law	57	5	28
g.	Entitlements to rest periods/days	61	2	27
h.	Entitlements to adequate housing	42	18	30
i.	Entitlements to safe and health working conditions	62	2	26
j.	Discrimination between men and women migrant workers	55	7	28

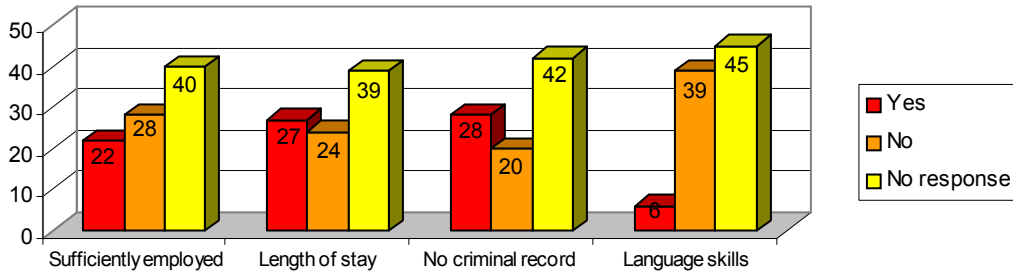
## Regularization

- **Question 33.** Is there an established procedure through which irregular migrant workers can regularize their status?
- **Question 34.** On what grounds have irregular migrant workers been considered to qualify for regularization?
  - A. Being sufficiently employed
  - B. Length of stay in the country
  - C. No criminal record
  - D. Ability to understand and speak language of the country

*Established procedure to regularize status of irregular migrant workers*

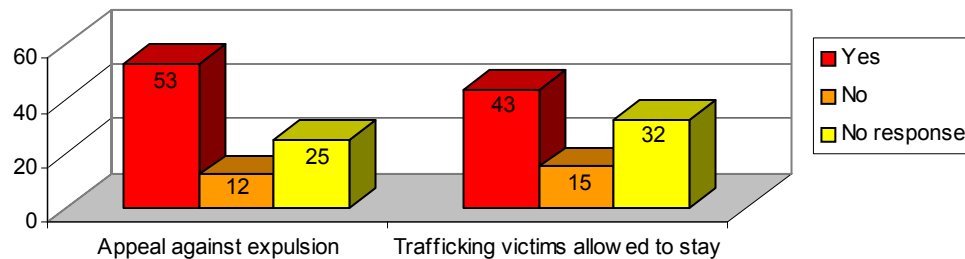


*Grounds upon which irregular migrant workers are considered to qualify for regularization*



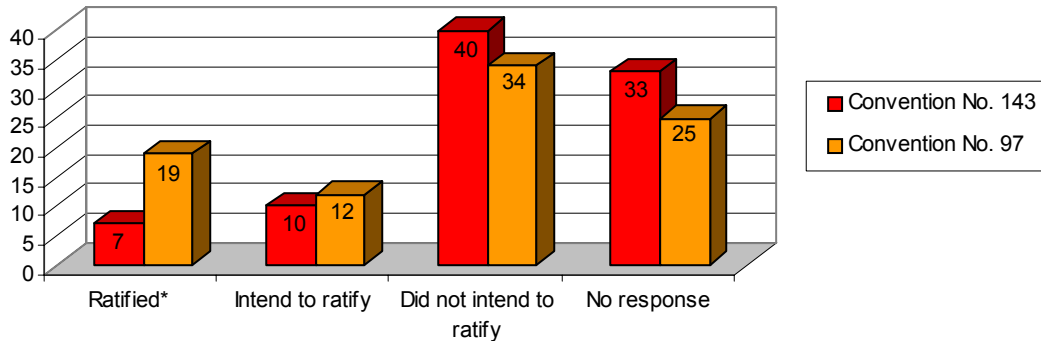
## Expulsion

- **Question 35.** Do you have an established procedure for hearing appeals against expulsion?
- **Question 36.** Does your Government allow victims of trafficking to remain in the country while law enforcement agencies pursue the prosecution and conviction of their traffickers?



**ILO Action****International labour standards**

- **Question 41.** If you have not already done so, have you initiated or do you intend to initiate ratification procedures for the following ILO Convention on migrant workers: (a) Migration for Employment Convention (Revised), 1949 (No. 97) and/or (b) Migrant Workers Convention (Supplementary Provisions), 1975 (No. 143)?  
If no, please specify whether any specific article or articles in either one of these instruments represent an obstacle to ratification.



\* Numbers refer only to those countries that replied to the Survey

**Articles of Convention No. 97 that pose obstacles to ratification**

- Article 2 – free service to assist migrants for employment (*Estonia, Sri Lanka*)
- Article 6 – treatment equal to nationals (*Mexico, Slovakia, and United Arab Emirates*)
- Article 7 – cooperation between member States and free public employment services (*Estonia*)
- Article 8 – migrant worker allowed to remain in country after termination of employment contract due to illness or injury (*Slovakia*)
- Annex I, II and III (*Madagascar, Slovakia*)

**Articles of Convention No. 143 that pose obstacles to ratification**

- Article 2 – determine conditions of irregular migrant workers (*Mexico*)
- Article 3 – suppression of clandestine movement of migrants and organizers or illicit or clandestine movements (*Mexico*)
- Article 6 – detection of and penalties against illegal employment (*Mexico*)
- Article 8 – effects of loss of employment on migratory situation and equality of treatment on security of employment (*Mauritius and Netherlands*)
- Article 9 – equal treatment of migrant worker with respect to rights arising out of past employment as regards remuneration, social security and other benefits (*Mexico*)
- Article 10 – equality of opportunity and treatment (*Estonia, Germany, Mauritius and Mexico*)
- Article 12 – cooperation with employers' and workers' organizations, enactment of legislation and encourage educational programmes (*Germany, Mexico and Slovakia*)
- Article 13 – facilitate the reunification of families (*Mexico and Slovakia*)

- Article 14 – geographical mobility (*Belgium, Germany, Mauritius and Slovakia*)

**General obstacles**

- The Conventions are not in line with current national laws and practice—(*Czech Republic, Finland, Japan, Kuwait, Slovakia, Switzerland and United Kingdom*)
- Follow-up procedures and elaboration of reports requested upon ratification (*United Arab Emirates*)
- Conventions are inflexible with respect to the member States systems and procedures, e.g. the social security system (in particular provisions that grant migrants and their families the same conditions as nationals, that offer the same rights for irregular migrants and with respect to family reunification) (*Denmark*)

**Remarks**

A relatively small number of the respondents replied that they intended to ratify either of the Conventions. However, only a handful of the member States specified obstacles that prevented ratification of the Conventions, the main reason stated being that the Conventions were not in line with national laws and regulations in this area.

**Impact of ILO instruments in the responding countries**

- **Question 42.** With respect to the following ILO Conventions and Recommendations, please indicate if you have used or intend to use them as models for your national law and practice in this area

**Remarks**

Based on the results of the Survey, both Conventions Nos. 97 and 143 appear to have impacted, directly (ratification), or indirectly (being used, or intended to be used as a model) on national laws and regulations, i.e. in 63% of countries for Convention No. 97 and 49% of countries for Convention No. 143. Conventions No. 97 and No. 143 have been ratified by 42 and 18 member States, respectively.

**Gaps**

- **Question 43.** Please explain if current ILO instruments in this area (including but not limited to Conventions Nos. 97 and 143) contain any significant gaps or lacunae that you consider should be addressed by the ILO.

- Conventions Nos. 97 and 143 are not specific enough
- Self-employed persons are not included in the scope of Convention No. 97.
- There is no clear definition of the term “family” in Convention No. 97
- Regularization of irregular migrants
- Documentation for temporary migration workers (Convention No. 97)
- Trafficking
- Lack of social protection of migrant workers in particular with respect to benefits
- Need to develop new strategies in reaction to the changes in migration brought about by globalization





