

MODULE

Learn about the legal framework and financial policies in your host country

SHORT DESCRIPTION

Part of setting up and running a business requires dealing with legal questions such as registering the enterprise, obtaining permits, filling out tax reports and financial policies. For a migrant who has no previous experience in the area and is also not used to the administrative system and institutions in the host country, this might be a significant obstacle and a migrant entrepreneur may face greater difficulties than a native counterpart in navigating regulations and administrative red tape. In this module we will learn how to manage this issue and overcome this kind of barrier.

CONTENT

Legal and administrative advice

Legal and administrative support aims to make it easier to deal with the requirements to start and run a business. Migrant entrepreneurs have no previous experience with the bureaucracy and legal/administrative requirements, as they are not often acquainted with the regulatory and administrative system of the place where they set up the business.

Therefore, migrant entrepreneurs need support with many business-related requirements, such as: business registration and how to obtain a license; labor law; tax regulations and declaration; social security obligations. Legal and administrative support is critical as many migrant entrepreneurs have difficulties in meeting the administrative and legal requirements of the country of migration.

Legal and administrative support should be provided through the combination of group training and personalized advice. On one hand, group training should provide an overview of the regulatory and administrative system and illustrate the main steps to start and run a business. On the other hand, it should include ad-hoc and personalized support to tackle individual needs and issues.

In some European Countries there are some particularly successful initiatives. In this regard we can make an example out of CNA World, a helpdesk service established in many Italian cities by the Italian National Confederation of Crafts and Small and Medium Enterprises (CNA). The service aims to offer personal and tailor-made legal and regulatory advice to migrants on both migrant-related problems (e.g., how to renew the residence permit) and business-related issues.

BONUS TIPS

- To find this kind of information, first check which national institution can help you with these issues (for example CNA in Italy)
- Contact local agencies and NGOs to take suggestions about which way to follow

Access to finance and facilities provision

Besides knowledge and competences, entrepreneurs often lack finances to start the business or expand it. In the start-up phase, even if migrant entrepreneurs have a very good business idea and the skills to put it in practice, the initial investment is often not affordable for them.

Investing in the beginning is fundamental to enter in more profitable markets with possibilities of growth. However, migrant entrepreneurs tend to enter in lower-profitable markets due to their lack of finances. Therefore, financial support should be provided, too. The support provided can be threefold:

- Direct financial support through loans and grants. Migrant entrepreneurs can be supported financially with microcredit instruments, zero- or low-interest small loans, equity investments, and grants. Another form of financial support is the provision of guarantees and counter-guarantees to financial intermediaries to foster provision of credit to migrant entrepreneurs that face difficulties in accessing the conventional credit market.
- Support in the process of applying for funding, loans and grants provided by other institutions (e.g., banks). Support can also be provided to apply for funding provided by other institutions. Migrant entrepreneurs can be supported in writing the application (e.g., the business plan) and to accomplish all the requirements.
- Provision of facilities to start the business for free or at a low cost. Providing migrant entrepreneurs with a place to work as self-employed or to start a business is critical to reduce the costs of conducting the business. This is particularly effective in the start-up phase, to allow migrants to have more financial capital available for the initial investment required.

Let's take a look at some examples with some good practices of some European Countries:

In Sweden, the Ester Foundation supports unemployed migrant women entering the labour market and starting small businesses. With the cooperation of Swedbank and Johaniterhjälpen, a charity organisation, the foundation has set up its own microcredit system through which participants can access loans at attractive rates and reduced risks. Migrant women whose business plans have been approved by the Swedish Employment Agency can receive additional financial start-up support from the Agency and are entitled to further loans from Swedbank.

The Spanish Ministry of Employment supports an NGO-run pilot project entitled Support to entrepreneurship for migrants. The project targets long-term unemployed migrant women who have no access to regular loans. The programme participants receive training on entrepreneurship and management and loans (in cooperation with a local bank).

Kompass – Centre for Entrepreneurship offers comprehensive support to entrepreneurs in Germany, including migrant entrepreneurs. When it comes to material support, Kompass provides both direct funding and cooperates with banks and other private and public actors to increase the financial support provided to the entrepreneurs. Furthermore, Kompass offer free/cheap access to working spaces. For example, it offers four-month free facilities.



The European Commission, through the Guarantee Financial Instrument of the EaSI (EU Programme for Employment and Social Innovation), aims at increasing the availability of, and access to, finance for vulnerable groups (including migrants) to start and develop their business.

Guarantees and counter-guarantees are offered to financial intermediaries, thereby providing them with a partial credit risk protection for newly originated loans to eligible beneficiaries

Although it does not provide finances directly, FAIE (Facilitate and Accompany the Economic Initiatives) by NGO Asmoune provides support in the application process in France. FAIE targets North-African migrants through individual support and networking activities. Participants are informed about available financing opportunities and they receive support throughout the entire application process, e.g. in writing the cover letter and the business plan, and in drafting the budget.

Other already-mentioned initiatives provide either direct financial support to migrant entrepreneurs (e.g., CNA World), or information on financial opportunities and support in the application process (e.g., Barcelona Activa). Finally, another example of provision of facilities is the Swedish cooperative Macken, which offers offices at a favorable price to migrants.

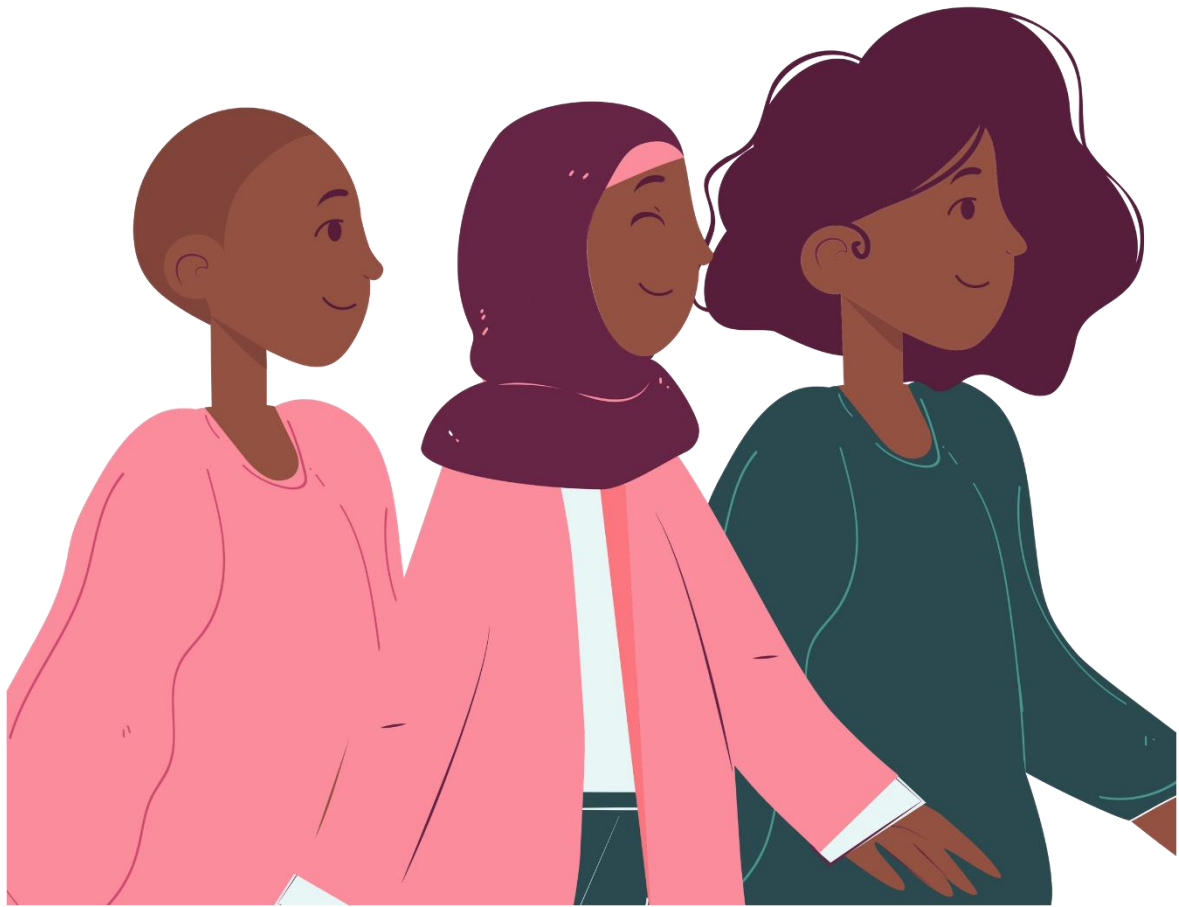
BONUS TIPS:

- Do research about the business needs of the hosting country
- Draft a business plan of your business idea
- Search on the web for active local programs to finance your idea
- Contact local agencies, banks and/or NGOs to ask for support on your business plan

The EU legal framework for migrant entrepreneurship

The integration of migrants in the EU is a subject of national legislation and policy, but several EU directives set up common rules for employment of non-EU nationals that are compulsory, to be followed by the member states. With regards to entrepreneurship, there is no EU regulation specific to migrant entrepreneurship. The legal framework of entrepreneurship in the EU member states is broadly harmonized and it is based on the principle of freedom of establishment that guarantees open access to enterprise and that the same rules must apply to all entrepreneurs regarding the establishment and operation of their business.

Migrants in the EU face no restrictions in setting up companies and the data suggests that a substantial number of migrants start their own business instead of choosing to go into employment.



The freedom of access to local markets for migrant companies is further strengthened by EU policies. The promotion of entrepreneurship is incorporated in the Europe 2020 strategy and the entrepreneurship 2020 action plan, where one of the specific commitments is to facilitate entrepreneurship among migrants who are already present and residing in the EU, based on best practices from EU countries. The strategy focuses on the obstacles migrants face in starting and doing business, including their limited knowledge of and lack of information about the culture of business and regulatory environment of the host country, as well as the administrative and socio-cultural difficulties of running the business. Access to finance is not mentioned in the strategy as a main obstacle to migrant entrepreneurship. The EU focuses on policies aiming at effective and targeted business support schemes.

No legal restrictions are implied at EU level for migrant entrepreneurs to start and conduct business, but they must have legal status and a valid residence permit. The legal framework for migrants' residence is subject to different practices in the respective member states. Furthermore, the different categories of migrants have different starting points with regards to accessing entrepreneurship support. In general, migrants who have residence in the recipient country could start businesses, except in the case of large investors who are granted status due to their large investment.

In the case of humanitarian migrants, there is EU regulation on their access to labor markets and entrepreneurship. The Receptions Conditions Directive (2013/33/EU) sets out the rights of asylum seekers and refugees and is applicable at national level. This includes a transition period of no more than nine months from the lodging of an asylum application until access to the labor market is granted. The same

applies to entrepreneurs. It must be noted that this timing is not always adhered to at national level, and examples of this have been noted in the UK.

Regulatory challenges and possible improvement

Migrant entrepreneurs face various challenges relating to the regulatory framework throughout the EU, including:

- Self-employment in regulated industries is often subject to certification requirements and procedures that can make it difficult for skilled migrants to start new businesses. If re-training requires financial resources, this is further exacerbated by their lack of access to funding. As a result, migrant trajectories tend towards markets with low barriers to entry and low-end required formal qualifications.
- The administrative burden related to the legal business environment has an increased negative effect on migrants due to their potentially limited language and administrative knowledge.
- Understanding the host country's legal and institutional framework is difficult, as it is often different from migrants' business knowledge accumulated in their home country. Language difficulties, cultural differences, and limited knowledge of the regulations which govern entrepreneurship make starting a company harder.
- Another challenge from individual point of view for migrant entrepreneurs is obtaining residence status for themselves and family members. This uncertainty impedes investment in human capital and therefore participation in migrant entrepreneurial services.

In addition to the above, there are several areas that could be improved in order to provide migrant entrepreneurs with legal certainty, namely:

- A provision must explicitly state in the legislation that all government-supported programs for start-up and business promotion will be opened for migrants and that equal treatment is guaranteed.
- Implement favorable regulations (at local, national, and supranational levels) by identifying regulatory obstacles impeding immigrants from setting up business, including rules and regulations that connect self-employment with educational requirements, permits and registration; and validating previous formal qualifications if required for particular types of businesses.
- The compliance between national and regional/local legal framework and policies must be improved. In some cases, on a local level some restrictions could negatively affect migrant business such as access to local resources, permissions, fees, administrative provisions particularly required for non-citizens, etc.
- Cutting red tape generally, but also removing aspects that would specifically impact migrants would improve their access to entrepreneurship.
- Favorable treatment of family members of migrants would help attract migrant investors.

The experience suggests that migrants do not take advantage of receiving support from the existing institutional frameworks for business support such as: SMEs agencies, chambers of commerce and industry and NGOs. Some of the notable regulatory challenges are:

- On an institutional level the regulatory framework varies for different categories of migrants, particularly migrant-investors, asylum seekers and refugees. While the legal framework guarantees open access to migrants to start and run a business, this opportunity exists only to those migrants who have already a legal status in the recipient country. The legislation in all EU countries gives priority to migrant-investors who are eligible (under different conditions) in each country for permanent residence status as well as citizenship. In this case, starting a business in the host country

is an instrument or motivation for migration while in all other cases migrants must have a valid residence permit in order to start a business.

- Another institutional challenge is that Local and Regional Authorities receive insufficient support from central governments, with their role in the integration process not being clearly recognized in legislation, despite it being crucial. (Regulatory Framework on Employment and Funding for Migration and Integration Policies in the EU – European Union – Committee of the Region).

NGOs, who are main actors in the provision of migrant entrepreneurial services (especially where governments have retreated), are often at least partly funded by local and/or central governments. This support is dependent however on frequently changing governments and public opinion. This means that even high-quality services provided to migrant entrepreneurs may not exist from one year to the next. Funding cycles can also be short, meaning that NGOs will struggle to attract and retain high quality staff where future funding is uncertain. The competition between NGOs increases particularly in a situation of squeezed financing, creating a high turn-over of service providers. Widening NGO involvement in migrant entrepreneurship promotion would enlarge the public support for these enterprises and could help them to achieve better market positioning. The German experience represents an efficient good practice giving particular attention to migrant entrepreneurship in priority regions.

The NGO sector does not have mechanisms in place to ensure high quality service provision to migrant entrepreneurs. The fact that the sector is mostly unregulated means that the services provided by organizations may not adequately address the specific needs of would-be entrepreneurs.

Migrant entrepreneurship is an important tool for the integration of migrants and their dependents in the host society and economy. Although the data suggest large numbers of migrants are currently opting for self-employment instead of paid employment, there are obstacles that need regulatory and policy responses.

- Entrepreneurship rarely plays an important role in the integration policies of member states.
- Entrepreneurship promotion policies for migrants are not a priority for any of the countries in the consortium.
- Policies related to migrant entrepreneurship are not integrated in the legislation. They are program and project based. The main challenge of this policy approach is the consistency, continuity and sustainability of these programs and their results.
- Policies governing migrants and refugees are usually devised at a national level. This is especially the case for Greece, France, Hungary, Poland, and Sweden, who often bypass regional authorities although local authorities are involved in implementing policies. In the newer Member States and to some extent in France, policies are often not specifically targeted at migrants but rather migrants may benefit from employment or entrepreneurship policies targeting the wider population.
- In many countries, the national authority responsible for migration and integration policies is the Ministry of Internal affairs, who is dedicated to overseeing the implementation of policies at regional or local levels. The limited capacity of these institutions is echoed by that of the NGOs. There are indications that Local and Regional Authorities receive insufficient support with their role in the integration process not being clearly recognized in legislation, despite them playing an important role.
- Further decentralization of migration policy and the provision of more resources and roles to the local authorities would also allow the field migrant entrepreneurship to develop and grow more easily.

GUIDELINES/TIPS

- Migrant entrepreneurship is a big challenge for migrants and for hosting Countries, both have the opportunity to improve to way to reach the goal.
- Creativity and a clear plan are the first step
- World Wide Web is a treasure of information, use it!

EXTERNAL RESOURCES/ TOOLS

- https://unctad.org/system/files/official-document/diae2018d2_en.pdf - Policy Guide on Entrepreneurship for Migrants and Refugees
- <http://migrant-entrepreneurship.eu/wp-content/uploads/2019/05/A.1.b-1.pdf> - Measures to support early-stage migrant entrepreneurs
- <https://publications.iom.int/books/policy-guide-entrepreneurship-migrants-and-refugees> - Policy Guide on Entrepreneurship for Migrants and Refugees
- https://migrantacceleration.eu/media/D1.1-TNF1-Report_final.pdf - Identifying common issues and challenges of Migrant Entrepreneurship Support and the role of entrepreneurial skills
- https://assets.ey.com/content/dam/ey-sites/ey-com/en_gl/topics/workforce/TCM_Cities_Entrepreneurship-FINALWEB.pdf - Policies to Support Immigrant Entrepreneurship
- <http://www.gfmd.org> - Global Forum on Migration and Development