

## The EU performance in the global competition for highly-skilled migrants

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### Summary

European efforts to attract highly-qualified immigration face several obstacles, from the non-existence of a true intra-European labour market to the difficulties resulting from the overly timid design of the Blue Card. It is still impossible to evaluate the Blue Card's effect but the changes that have taken place in the European migratory framework since its approval in 2009 should now allow the re-drafting of the Directive to offer a more attractive channel to qualified immigrants. During the past few years, several European countries have adopted new initiatives to attract this immigrant-type, bringing about a set of experiences over which a new common and more ambitious framework can be built. In this context, the Policy Paper presents several proposals such as enhanced cooperation amongst sub-sets of Member States with similar salary structures, the opening of the academic admissions gate, or measures to enhance intra-European labour mobility of both EU citizens and third-country nationals.

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Carnegie Europe, CCEIA, CER, CEPS, demosEUROPA, ECFR, EGMONT, EPC, Real Instituto Elcano,

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## Introduction

Innovation is the key to halting the progressive loss of markets for European products and services. That was clearly stated in the Lisbon Strategy for 2010, and repeated in the Europe 2020 Strategy. But innovation is the fortuitous result of two main elements: public and private investment in basic and applied research as well as the development of both technology and talent. Does Europe have enough investment and talented researchers and engineers to face the challenge of being more innovative than China or the US? It seems not: according to the World Intellectual Property Organization, Japan, the US, China and Korea are well ahead of the EU in terms of the number of registered patents. As for individual EU countries, only Germany, UK, France and Poland are among the top 20 producers of patents worldwide. Most people would agree that immigration is a means of boosting the numbers of innovative, high-qualified individuals in the population. But the data collected by the Organization for Economic and Development Cooperation<sup>1</sup> show that migrants from third countries living in European countries have a significantly lower level of education on average than those living in Canada or Australia (64% of migrants born in non-OECD countries and living in Canada have a university degree, compared with 30% in France or 10% in Italy). Of course, OECD data refer to stocks, i.e. the accumulated number of immigrants living in each country, including migrants who arrived in Europe in the 1950s and 1960s, usually with little education. Nevertheless, among the regions of origin for most migrants to the European Union – Turkey or North African countries for instance – a clear division appears between highly-skilled migrants (HSMs) who overwhelmingly look for a job in the New World, and low-skilled migrants who travel to Europe, now mostly through mechanisms of family reunification.

European migration policies have changed considerably in recent times, and the doors of many EU countries are now willingly opened only to highly-skilled immigrants. This policy is partly the consequence of shortages in domestic labour markets and partly the result of the European Commission's insistence upon the need to open those markets to highly-skilled immigrants. Following the Lisbon Agenda (2000), the European Commission encouraged Member States to discard the 'zero-immigration' policy followed by the majority since the mid-seventies, since these had failed both to prevent 'unwanted' immigration and to attract more desirable forms of labour. In 2001, it presented a proposal for a Directive to establish a common legal framework for migration to the EU, covering a full range of labour migration. It proved too much for the Member States, which blocked it. In response, the Commission proposed 'segmented' alternatives: it put forward individual measures for different types of migration. The so-called Blue Card Directive (2009), for highly-skilled immigrants, has been the first to achieve approval and Member States were obliged to transpose it by mid-2011. It is too soon to judge the real impact of this Directive, as states are not obliged to produce statistics on the use of Blue Cards until 2013. Still, the Directive is generally considered to have fallen short of its central goal. It does not give immigrants access to the whole European labour market, but only that of the first country they go to, allowing subsequent movement to a second state under strict conditions only. This only highlights the disparity between the EU and its main competitor, the US. For one thing, labour markets are bigger in the US and the migrant who begins working in Illinois can then move freely to California or Oregon, while in the EU he or she must usually begin another application process to migrate to other Member State. Secondly, even if they could

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<sup>1</sup> OECD, *International Migration Outlook 2009*.

move freely across Member States, the divisions in the 'common' European labour market would hinder their mobility, as it does that of EU citizens. Income disparities between EU states are the main reason for the refusal of some richer countries, like Germany, to accept the free movement of HSM, as many could qualify for a permit in a poorer Member State – the national average salary is the main reference – and then move to a richer one.

## **1. The long-term agenda: tackling the absence of a European labour market**

In the long term, Europe intends to tackle the challenges of labour-market shortages with a dual approach. One involves promoting intra-EU labour mobility, in a bid to increase the efficient distribution of labour between EU countries and channel national emigrants to the countries for which their skills will be most productive.<sup>2</sup> The second involves the attraction of migrants from outside the EU. Both issues are linked, since the lack of a genuine European labour market to facilitate and promote intra-EU mobility will present the EU with serious difficulties in attracting skilled immigrants.

Of course, the two approaches are not wholly complementary, and each brings its own specific benefits and trade-offs. The mobility of EU citizens within Europe can, for instance, mitigate the negative effects of a brain drain from those European countries most affected by the financial and economic crisis (e.g. Spain, Portugal, Greece) if at least the highly qualified remain in EU countries rather than migrate elsewhere. Concentrating on HSMs from abroad, meanwhile, fosters the accrual of knowledge from non-European education systems.

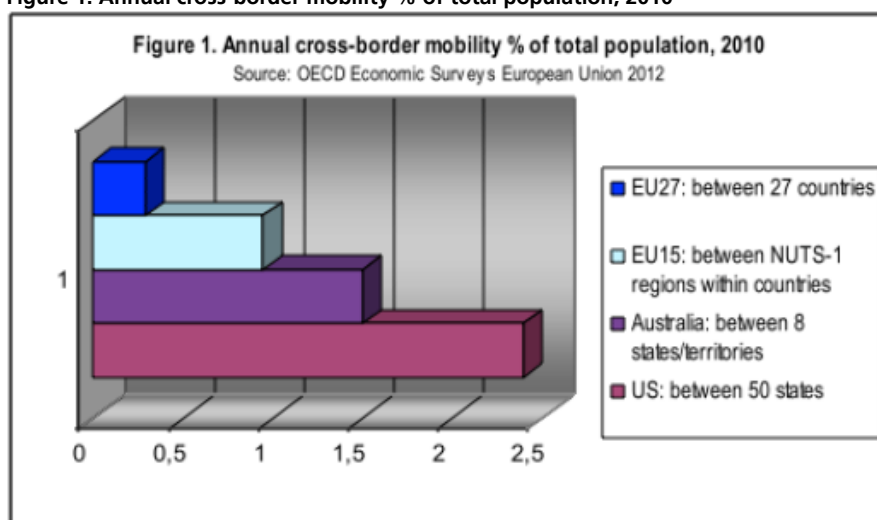
It goes without saying that the free movement of labour is already a right afforded all EU citizens. The principle of the free movement of workers is enshrined in Art. 45 of the Treaty on the Functioning of the European Union (TFEU), and should allow them to move where they are best suited or where there are jobs. Over time this right was extended to all EU citizens, not just workers, under certain conditions. Despite the advances made in recent years, however, a number of serious limitations and obstacles to internal mobility remain within the EU for EU citizens.

Internal mobility inside the EU is very low, especially in comparison with the US, Canada or Australia. According to the OECD, only 3% of working-age EU citizens live in a Member State other than the one where they were born.<sup>3</sup>

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<sup>2</sup> See Martin Kahanec and Klaus Zimmermann, "High Skilled Immigration Policy in Europe", Discussion Papers, DIW Berlin, January 2011.

<sup>3</sup> OECD, *Economic Survey: European Union 2012*, p. 63.

**Figure 1: Annual cross-border mobility % of total population, 2010**

Source: OCDE, *Economic Surveys – European Union 2012*.

It was only when eastern Europeans began to move in significant numbers to western countries, both legally and illegally, that the figures improved. The enlargements of 2004 and 2007 resulted in a regularisation of this previous mobility and promoted an increase in migration, although many EU15 countries applied transitional, restrictive arrangements. The stock of EU8 plus EU2 (new Member State) nationals residing in EU15 countries increased between 1997 and 2009 from 1.6 million to 4.8 million, a figure that represented 2% of the EU-15's working-age population. Since then, the financial crisis has negatively affected migration flows in the EU. As the OECD highlighted, intra-EU labour mobility has decreased alongside international migration to the worst-affected European countries.<sup>4</sup>

**Table 1 – Annual net growth of stock of foreigners in the EU-15 countries by group of citizenship (in thousands)**

CITIZENS FROM:	2004	2005	2006	2007	2008	2009	2010
EU-15	7	118	420	233	167	77	99
EU-10	84	260	429	360	124	18	295
EU-2	184	193	274	601	345	186	273
Non-EU-27 countries	1214	695	297	977	636	333	160

Source: European Commission, DG Employment, social affairs and inclusion, *Employment and Social Developments in Europe in 2011*.

The good news is that some indicators show an increasing participation of immigrants with tertiary degrees both among third-country nationals (TCN)s and intra-EU migrants. In Germany, for instance, less than 1% of all TCN migrants arriving in the late 1990s did so on a highly-skilled migration scheme – a number which increased to at least 11% in 2011. The data presented by the European Migration Network in 2011 also show a relevant increase of HSM among TCN in several other countries, like France, together with a higher increase in the amount of EU migrants with a tertiary degree.

<sup>4</sup> OECD, *International Migration Outlook 2011*, SOPEMI.

Highly-skilled non-EU nationals living in the EU do not, however, even benefit from the free movement rights afforded to EU citizens. These TCNs thus suffer all the problems that European citizens do when they decide to move from one European country to another, to which are added legal and bureaucratic difficulties associated with having to re-start the process for obtaining work and residence permits. In this sense, the relevant provisions of the Blue Card (Art. 18) do not facilitate intra-European mobility of HSM from non-EU countries.

The lack of a genuine EU labour market and the reality of a space fragmented into 27 pieces, are one of the main obstacles to the mobility of both EU citizens and TCNs in the EU, and consequently diminish the EU's prospects of becoming a pole of attraction for HSM. Over the long term, it is therefore essential to improve the processes so that a HSM from a third country who is already (legally) in the EU can easily move to another EU country.

Among the most significant obstacles to HSM labour mobility within the EU, we include:

- Legal obstacles: a Blue Card holder and their family members may move to a different Member State, but they must present an application for a new Blue Card, including all the same documents for the second Member State. In addition, the second Member State may decide, in accordance with its domestic law, not to allow him or her to work until the application has been approved.
- Linguistic obstacles: despite the extension of the use of English as a working language, in daily and administrative lives, national languages (even regional languages) play a relevant role and could act as a disincentive.<sup>5</sup>
- Administrative obstacles: for example there is still no system providing mutual recognition of official documents.
- Pension rights are not always easily portable between EU countries.
- There is a lack of information about job vacancies in other EU Member States.
- Transaction costs in housing markets in Europe are very high.
- Migrants from third countries face important difficulties in obtaining recognition of their professional qualifications. EU citizens also must overcome several obstacles, despite the Directive on "Recognition of Professional Qualifications" that came into effect in 2007. Currently, degrees are only automatically recognised in seven cases (architects, doctors, dentists, nurses, midwives, pharmacists and veterinarians). All other professional qualifications must pass long, complicated and uncertain processes to receive recognition. The Bologna Process, which should have facilitated automatic recognition, has not, in fact, dealt with this issue. Only in 2012 did promoters of the Process begin to think about it. This is one of the reasons behind the overqualification of many mobile workers and migrants from outside the EU. This is also a characteristic of the workers moving from one EU15 country to another, and especially for the workers from the EU12.

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<sup>5</sup> OECD, *Economic Survey: European Union 2012*, p. 64.

### ***Some proposals for promoting EU intra-labour mobility***

To this end, the most pressing issues seem to be to:

- Re-open the debate regarding the possibility of establishing a simplified process (some kind of fast track) to facilitate internal labour mobility for non-EU HSM between Member States.
- Make progress in overcoming the many obstacles, especially administrative and bureaucratic, which hinder intra-EU labour mobility for European citizens as well as immigrants from third countries. The automatic recognition of degrees with only well-grounded exceptions (such as law degrees) would make a big contribution to the EU internal labour market.
- Shift from the heavy focus on temporary migration. The Green Paper, which guided the recent reform of Europe's labour migration policy, focuses first and foremost on temporary admission systems, and discussions are still focused on circular migration schemes. In the context of highly-skilled migration, however, linking temporary immigration schemes with options for status changes would significantly increase the attractiveness of the EU as a destination for highly-skilled migrants.

## **2. The medium-term agenda: completing the Blue Card**

In light of the apparent unwillingness of governments to pool competencies and tackle these obstacles, it seems that the creation of an EU-wide labour market will be a laborious, long-term effort. In the short to medium term, meanwhile, three prominent fault lines in the Blue Card Directive are likely to produce suboptimal outcomes and require more immediate attention.

A first aspect concerns the fact that **the Blue Card is hardly holistic when it comes to the migration context**. As highlighted above, the Blue Card was adopted in relative isolation from other migration measures due to the way that the Commission reacted to the veto of its more comprehensive 2001 proposal. As a result, the EU has ignored the fluid distinctions between categories of migrants, and overestimated the utility of the Blue Card mechanisms – as opposed to, say, education or research policy – in attracting foreign workers.

The second is down to the nature of intergovernmental bargaining in Council, which meant that the Blue Card was not just lowest common denominator, but bore the influences of certain national regimes more than others, even if these were not easily applicable to the EU as a whole. Such outcomes are particularly problematic in a measure like the Blue Card, where the EU needs to adopt the most attractive practice available. That situation is particularly lamentable today, since, in their domestic efforts to attract HSM, some Member States now provide international best practices of their own. Third, governments initially aspired to emulate the US and use the EU-wide labour market to make the EU more attractive to third-country nationals. It is not just because of the blockages

to mobility explored above that they failed. **Member States simply do not have a sense of the collective benefits of together attracting immigrants.** Instead, and to a much greater degree, they feel in competition with one another. The Blue Card has, however, had an effect: it has stimulated individual domestic efforts. While this is no mean feat, of course (in 2007, only 10 members had programmes to attract HSM), it is not the original goal of the exercise and has occurred in a rather uncoordinated manner.

All this shows, however, that any evaluation of the Blue Card's implementation should not concentrate solely on this; it should investigate existing dualist national admission systems spurred by the negotiation and the implementation of the Directive. The fact that the Directive does not affect the right of Member States to adopt or retain more favourable provisions has resulted in a situation where many Member States now run a dual HSM admission system in which the Blue Card offers only an additional channel of entry.

Besides the "classic", long-term option of improving the attractiveness of the EU as a migrant destination by offering policies of scale along the lines of the US Green Card and H1B visa, there exists at least three alternatives to "complete" the Blue Card. First, competition and differences between the Member States could be harnessed with some kind of 'reinforced cooperation' between different subsets of members offering beneficial packages amongst themselves. Second, the proliferation of parallel national admission schemes offers some inventive ideas to refine and advance the current system and to iron out some of the quirks in the current version. Lastly, the EU could take a more holistic approach, tapping other means of generating a highly-skilled workforce, for example by making greater use of the academic gate of immigration.

## 2.1. From competition to reinforced cooperation

In the short run and on the basis of the current Directive, different forms of enhanced cooperation amongst subsets of Member States might cure some of the Blue Card's existing shortcomings. Within the external dimension of Europe's migration policy, the Global Approach for Migration and Mobility underlined the importance of Mobility Partnerships and its tailor-made approach aiming for closer cooperation between a number of Member States and a selected third country. Through such targeted agreements with third countries, groupings of Member States with similar points of attraction would woo highly-skilled immigrants. For those EU Member States which share a similar need for highly-skilled labour and are able to offer similar working, salary and living conditions, it could make sense to work together to recruit foreign workers with the right profile whilst competing against other sub-groups. In recent years, many Member States have followed the lead of the European Immigration Portal and launched their individual recruitment campaigns, which could be effectively replaced by common efforts between Member States sharing similar interests.



## 2.2. From the lowest common denominator to the highest

As regards the medium-term perspective of recasting the Directive, the dualism of EU and national measures has been a welcome development for two reasons. First, it should allow for the harmonisation of highly-skilled migration schemes on a far higher level than the existing Directive does. The world of HSM admission systems in Europe today looks very different compared to the situation in 2007 when the Directive was originally proposed, and Member States are more at ease with such policies. Second, the Directive has provided a wide range of national practice to emulate. Examples of successful national practices include the job seekers' visa, which was recently introduced in Austria and Germany. This instrument, originally included in the Draft Directive in 2001, introduces a residence permit for highly-skilled immigrants, allowing them to search for an equivalent job for up to six months, therefore significantly reducing the difficult matching process between employers and employees.

## 2.3. Taking a holistic approach by opening the academic admissions gate

As part of that medium-term reform, the Blue Card regime should be released from its segmented corset and aligned with other aspects that are usually part of a highly-skilled migration regime. In traditional immigration countries, one complementary strategy includes making use of foreign students and graduates, which have emerged as one of the key sources of highly-skilled migration. In Germany, for example, every fourth highly-skilled migrant is admitted today on the basis of graduating from a German University.

1. Despite the importance of the academic admission gate, the Students Directive from 2004 established only a first step towards harmonisation and the intention so far has not been to create incentives for foreign graduates to remain in the EU after the completion of their degrees. Even today, Member States regularly fail to utilise this potential source of well-qualified and integrated foreign labour, and this is something that should be addressed in the process of redrafting the Students and Researcher Directives. The negotiations will provide a welcome opportunity to develop this important part of the jigsaw of Europe's comprehensive highly-skilled immigration regime.
2. Although the Bologna Process will be long and drawn out, and truly international courses in English or other widely-spoken languages still constitute only a tiny minority in most Member States, this relatively recent shift in the systems of higher education in the EU has already made them more attractive to foreign students. Promoting the use of English as a vehicular language in more European universities would attract many foreign students who want to become fluent in English while they earn a degree.