

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

# POLICY DEPARTMENT

## CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



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# Exploring new avenues for legislation for labour migration to the European Union

STUDY FOR THE LIBE COMMITTEE





**DIRECTORATE GENERAL FOR INTERNAL POLICIES**

**POLICY DEPARTMENT C: CITIZENS' RIGHTS AND  
CONSTITUTIONAL AFFAIRS**

**CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

# **EXPLORING NEW AVENUES FOR LEGISLATION FOR LABOUR MIGRATION TO THE EUROPEAN UNION**

**STUDY**

## **Abstract**

The paradox between the need for international labour migration to counter the impending demographic crisis in Europe and the lack of commensurate policy instruments to attract and integrate labour migration from third countries into the EU is one of the key strategic issues for Europe. Upon request by the LIBE committee, this research paper reviews the social and economic context of EU international labour migration policy, the status of relevant EU legislation and the available policy options from a comprehensive labour market perspective, as well as their feasibility. These options for opening up legal labour migration channels to the EU should be considered in the framework of the ongoing discussion over the European Agenda on Migration.

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COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

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## LIST OF ABBREVIATIONS

<b>AMIF</b>	Asylum, Migration and Integration Fund
<b>Blue Card Directive</b>	Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.
<b>CAMM</b>	Common Agenda on Migration and Mobility
<b>Cedefop</b>	European Centre for Development and Vocational Training
<b>CJEU</b>	Court of Justice of the European Union
<b>DCFTA</b>	Deep and Comprehensive Free Trade Area
<b>EASO</b>	European Asylum Support Office
<b>EES</b>	European Employment Strategy
<b>EMN</b>	European Migration Network
<b>ENT</b>	Economic needs test
<b>ERDF</b>	European Regional Development Fund
<b>ESF</b>	European Social Fund
<b>EU</b>	European Union
<b>EULFS</b>	European Union Labour Force Survey
<b>EURES</b>	Network of the European Employment Services
<b>FRONTEX</b>	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
<b>GAMM</b>	Global Approach to Migration and Mobility
<b>GATS</b>	General Agreement on Trade in Services
<b>GDP</b>	Gross Domestic Product
<b>ICT Directive</b>	Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer

<b>IFIOD</b>	Indicator of Future Imbalances of the Demand
<b>ILO</b>	International Labour Office
<b>IMISCOE</b>	International Migration, Integration and Social Cohesion
<b>IMPALA</b>	International Migration Policy and Law Analysis
<b>IND</b>	Immigration and Naturalisation Service
<b>IOM</b>	International Organization for Migration
<b>ISCO</b>	International Standard Classification of Occupations
<b>IT</b>	Information technology
<b>LMIS</b>	Labour market information system
<b>LMT</b>	Labour market test
<b>LTR</b>	Long Term Resident
<b>LTR Directive</b>	Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents
<b>MP(s)</b>	Mobility Partnership(s)
<b>MPC</b>	Migration Policy Centre
<b>MS(s)</b>	Member State(s)
<b>OECD</b>	Organization for Economic Cooperation and Development in Europe
<b>OMC</b>	Open method of coordination
<b>PIAAC</b>	Programme for the International Assessment of Adult Competencies
<b>R&amp;D</b>	Research and Development
<b>Researchers Directive</b>	Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research.
<b>Seasonal Workers Directive</b>	Council Directive 2014/36/EC on the conditions of the entry and stay of third-country nationals for the purpose of employment as seasonal workers.



**Students Directive** Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service.

**Students and Researchers Recast Directive** Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing [recast], COM (2013) 151

**TCN** Third-country national

**TFEU** Treaty on the Functioning of the European Union

**WEF** World Economic Forum

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## EXECUTIVE SUMMARY

**Attracting international labour over the medium- to long-term is a crucial strategic issue for the European Union:** demographic challenges, enhanced European global competitiveness, sustained European growth and the survival of welfare systems over the next decades, all depend on it.

**However, EU labour migration policy has received very little attention** from policy-makers, media and the public in general, even in the framework of the recent proposal for a European Migration Agenda.

**As a matter of fact, the EU has no comprehensive set of policy instruments to cope with the international labour required by its labour markets.** There are several reasons to undertake the development of a more coherent and more comprehensive legal labour migration policy framework in the EU:

- Non-economic migrants (family reunification, refugees and foreign students) amount to between two thirds and three quarters of all third-country nationals entering the EU labour market;
- Labour migration policy is the only instrument allowing the selection of skilled migrants with the qualifications and skills required by European labour markets;
- Effective legal labour migration channels are a necessary component of any strategy to fight irregular labour migration;
- Legal migration is a key component of international bilateral migration policy dialogues between the EU and its partner countries, in particular Mobility Partnership with Neighbourhood countries. A coherent EU labour migration policy framework is required to integrate this issue into policy dialogues.

**As a consequence, an EU labour migration policy framework should be an integral part of the emerging EU labour market and employment policies.**

**The political sensitiveness of immigration policy and the exclusive competence of Member States** to decide the volume of admissions of third-country nationals seeking work are two major constraints on any policy initiative in this field.

### Structure and main conclusions

**This paper first reviews available evidence on the need for labour migration from third countries to the European Union.** Today, in most Member States high unemployment and underemployment levels coexist with substantial labour shortages as perceived by employers. Whereas there is not an overall quantitative labour shortage for the whole EU, **several studies find the existence of qualitative labour market shortages for specific skill levels, sectors or occupations, in particular for low-skilled occupations.** Highly-skilled profiles are, instead, needed only in a limited number of occupations and countries. Accordingly, any strategy addressing labour needs in the EU – including highly-skilled migration schemes – should be geared to national labour markets' needs and be strongly sector-oriented.

**By looking at the different forecasts available, it can be seen that international migration is poised to play a major role in filling the EU's labour market needs.** Accordingly, redesigning pro-immigration policies should be a complementary response to current and future European labour supply dynamics.

This paper, also, reviews **the gradual development of an EU-wide legal framework on economic migration and its current status**. After a 2001 attempt to adopt a comprehensive approach to economic migration to the EU, EU legislation has opted for a “category-by-category” approach. **To date this has focused on students and researchers, highly-qualified migrants, seasonal workers and intra-corporate transferees. There is also a proposal recasting the Directives on foreign students and on researchers that has not yet been adopted.** Assessments of the implementation of the Researchers Directive (2011) and the Blue Card Directive on highly-qualified migrants (2014) show low rates of use. In both cases, as with the Seasonal Workers Directive, the wide powers of discretion retained by Member States and insufficient promotion of the existence of new rules undermines the potential of directives.

Beyond the conditions of admission, the **intra-EU mobility of third-country nationals remains a key component of EU labour migration policy** and one of the biggest failures in European immigration policy. Overall, the EU labour migration system lacks effective coordination mechanisms between Member States for policy implementation at the EU level.

**The paper, next, looks at the existing evidence for the impact of EU migration policies on migration flows in the labour market, as well as the integration challenges posed by the arrival of third-country nationals.** Available data do not allow for a thorough assessment of the impact and effectiveness of immigration policies on migrant flows and – especially – on migrant composition in terms of reasons for entrance: family reunification beneficiaries, refugees, workers and students. Only very limited quantitative studies have been conducted in a systematic and comparative way at the EU level. This lack of data and research severely limits our ability to understand and design an evidence-based EU labour migration policy.

However, the low level of use of EU labour migration policy tools, such as the Researchers Directive or the Blue Card Directive, suggests that **the impact of EU labour migration policy on migratory movements is very limited.**

**Empirical evidence reveals that migrants do not integrate into the labour market to the same extent as native workers.** They have lower wages and are more likely to be unemployed than native workers with the same characteristics.

**Regarding the proposal for a European Agenda on Migration** presented by the European Commission on 13 May 2015, the chapter on “A new policy on legal migration” does not contain major novelties in relation to the current EU labour immigration regime. The proposals lack a clear vision of future EU labour migration policy and its integration with labour market and employment policy. They do not build a comprehensive and coherent policy set and they do not make up for the shortcomings of current EU labour migration policies. Overall, they are not suited to respond to the identified and projected labour needs of the European Union over the medium- to long-term. However, they open a unique opportunity to discuss EU labour migration policy: this opportunity should not be wasted.

## Main recommendations

**In this regard, the paper calls for a comprehensive labour market vision of EU economic migration regime.** The current piecemeal, category-specific approach to legal labour migration at the EU-level does not respond to the needs of EU labour markets, which are subject to a process of gradual unification.

**Indeed, EU labour migration policy should be an integral part of EU labour market policy.** As such, it should incorporate measures facilitating the labour market integration of all flows of third-country nationals into the EU labour markets. This would include not only economic migrants entering the EU labour market with a work permit, but also all third-country nationals ultimately accessing European labour markets. Here there are, also, family reunification beneficiaries, asylum-seekers and foreign students.

**An operationalization of the EU preference principle is crucial to ensuring the smooth implementation of any EU-wide labour migration scheme** and the articulation between international migration and the intra-EU mobility of EU nationals.

**Social partners and social dialogue mechanisms are a necessary component of any EU labour migration initiative.** They both define an EU labour migration policy responding to the actual needs of the labour market and defuse misrepresentations of migrants in political discourse and public opinion.

**A public information and communication strategy on the realities of migration and the need for a comprehensive labour migration policy at EU level** should be an integral part of any policy debate in this field, given the strong anti-immigration attitudes in wide sectors of public opinion in many Member States.

**Legal labour migration opportunities to the EU should be integrated into EU migration agreements with third countries** (such as Mobility Partnerships), as well as mechanisms to facilitate the labour and skills matching for migrant workers from those countries. This would allow the articulation between EU labour migration policy and EU external cooperation in this field.

**More precise and disaggregated migration statistics should be collected at the EU level,** and the current Commission Annual Report on Immigration and Asylum could be transformed into a fully-fledged EU-wide migration policy review mechanism.

**Last, but not least, more research and better production of data are crucial in any effective evidence-based labour migration policy at the EU level.** More research is needed, in particular, in the following areas:

- Labour market integration of non-economic migrants;
- Patterns of intra-EU mobility of third-country nationals legally residing in the EU;
- Mechanisms to better match the profile of labour migrants to the needs of the EU labour markets;
- The actual implementation and working of labour market tests in different EU Member States.

## **Policy options to open new avenues for legal labour migration to the EU**

The paper briefly reviews a series of concrete policy options for widening the legal channels for access to the European labour market in response to identified labour market needs. The analysis of existing options allows some conclusions on the right mix of policy instruments to integrate into a comprehensive labour market approach. The main objectives would be the following: ensuring a more efficient international labour matching of migrant workers; optimizing the labour force already present in the EU; fitting legal migration channels to the needs of the European labour markets; and ensuring the availability of a sufficient pool of potential labour migrants for employers. In terms of policy instruments, an analysis of existing options suggests the following conclusions:

### **1. Improving labour matching within and outside the EU**

- **An EU-wide Labour Market Information System and an EU labour market needs a forecasting system** integrating migration flows of non-economic migrants. Both are the basis of any effective, evidence-based labour migration policy at the EU level. The former can be used to facilitate international labour matching for third-country nationals and to operationalize the principle of EU preference and to ensure a better matching of labour migration policy outcomes to the actual needs of EU labour markets.
- **Current EU and Member States job intermediation mechanisms (notably public employment services matching systems) could be extended to third country nationals**, in particular through partnerships with public employment services in countries of origin. An obvious step there would be to extend the European Job Mobility Portal, EURES, to third countries, in particular Neighbourhood countries in the framework of Mobility Partnerships.
- **The role of private placement agencies** in international labour migration matching should be enhanced and regulated, for instance through the development of a system of certified international recruitment agencies.

### **2. Optimizing the labour force already present in the EU**

- **The labour market integration of non-economic migrants has to be supported**, first by getting a better knowledge of their skills and facilitating changes in migratory status;
- **The intra-EU mobility of third-country nationals** legally working in EU Member States should be facilitated; and the **targeted regularization of irregular migrants for whom there is labour market demand** should be incentivized.

### **3. Fitting legal migration channels to the needs of the European labour markets**

- **The ongoing reform of the EU Blue Card** should impose fewer costs on migrants and employers and grant more rights, in particular to intra-EU mobility, to Blue Card holders.
- **Targeted and occupation-specific job search visas** might be a more effective instrument to match EU labour migration policy to EU labour market needs than supply-driven **"expression-of-interest" system**, as suggested in the European Agenda on Migration.

#### **4. Extending the pool of potential labour migrants for employers**

- **Foreign students graduating in EU education institutions** should have some opportunity to access EU labour markets, enhancing thus the attractiveness of the EU destination, and **an EU Traineeship Programme for third-country nationals** could be a building block to facilitate the smooth integration into of third-country nationals with the required skills.
- **More generally, the recognition and certification of qualifications and skills obtained in third countries by third-country nationals** should be made easier and progress towards an EU-wide recognition system should be envisaged.

# 1. INTRODUCTION: WHY IS THERE A NEED FOR NEW EU LEGISLATION ON LABOUR MIGRATION?

## KEY FINDINGS

- **Attracting international labour over the medium- to long-term is a crucial strategic issue for the European Union:** demographic challenges, enhanced European global competitiveness, sustained European growth and the survival of welfare systems over the next decades, all depend on it.
- However, EU labour migration policy has received **very little attention from policy-makers, media and the public in general**, even in the framework of the recent proposal for a European Migration Agenda.
- The **EU has no comprehensive set of policy instruments** to cope with the international labour required by its labour markets.
- **There are several reasons to undertake the development of a more coherent and more comprehensive legal labour migration policy framework in the EU:**
  - Non-economic migrants (family reunification, refugees and foreign students) amount to between two thirds and three quarters of all third-country nationals entering the EU labour market;
  - Labour migration policy is the only instrument allowing the selection of skilled migrants with the qualifications and skills required by the European labour markets;
  - Effective legal labour migration channels are a necessary component of any strategy to fight irregular labour migration;
  - Legal migration is a key component of international bilateral migration policy dialogues between the EU and its partner countries, in particular Mobility Partnership with Neighbourhood countries. A coherent EU labour migration policy framework is required to integrate this issue in policy dialogues.
- **An EU labour migration policy framework should be part of the emerging EU labour market and employment policy.**

There are signs of an impending demographic crisis in Europe. Beyond political debate, this emerges clearly from the consolidated demographic trends, both in terms of decreasing fertility and in terms of population aging (see Section 2.2). This is no doubt one of the key strategic questions for the future of Europe as a whole, its growth and well-being: the growing divergence between the economic force of Europe and its demographic underpinnings. This points clearly to a need for international labour migration in the coming decades. But the mechanisms to organize international labour migration to the EU has received very little attention from policy-makers, the media and the public in general, even in the framework of the discussion of the European Agenda on Migration (reviewed in Section 5). When it does receive attention, it is all too often in relation to negative public attitudes towards migration or biased political debates about the assimilation of immigrants (analysed in Box 3 below). In contrast, the ongoing irregular migration crisis in the Mediterranean and the attempts at the EU level to cope with it (in terms of internal solidarity and distribution of responsibility) is attracting a great deal of attention. It is also



skewing the debate even further, as well as imposing a political focus on short-term responses to the detriment of more strategic medium- to long-term approaches.

This notwithstanding, the reality is that the EU has not the policy tools in place to handle this issue over the medium term. The same applies, at national level, to many Member States. The need for an EU-wide labour migration system has long been discussed<sup>1</sup>. Since its appointment, the new European Commission, which began its time in office in November 2014, has shown itself determined to address this issue. President Juncker included, among his ten political priorities, "Towards a new Migration Policy" "to promote a new European policy on legal migration, in order to address specific skills shortages and better cope with demographic challenges, and as a first step, to review 'Blue Card' legislation and its unsatisfactory state of implementation". Juncker also designated a Commissioner with special responsibilities for migration, Dimitris Avramopoulos, and included this issue in his mandate<sup>2</sup>.

Following up on this commitment, on 13 May 2015 the European Commission published its Communication on "A European Agenda on Migration" which tries to articulate a global response to migration and asylum challenges at the EU level<sup>3</sup>. The bulk of the Commission Communication is devoted to immediate action to face the migration crisis in the Mediterranean, fighting irregular migration and smugglers, border management and the development and implementation of a common asylum policy. But the Agenda also includes a pillar devoted to "A new policy on legal migration" with some action guidelines in this field (see Section 5). As such, it opens up a unique opportunity for a deep political and policy debate at the EU level on the future configuration and instruments of EU labour migration policy. This research paper intends to be a contribution to that debate based on existing research and policy-oriented analysis.

In terms of labour migration, EU action is constrained by the current distribution of competences between EU institutions and Member States. According to article 79(5) of the Treaty on the Functioning of the European Union (TFEU), Member States have the exclusive competence of determining the volumes of admission of third-country nationals coming from third-countries in order to seek work, whether employed or self-employed.

But, as stated in the European Agenda on Migration, the EU has a specific role in this regard as well. Indeed, the reasons to undertake the development of a more coherent and more comprehensive legal labour migration policy in the EU are several:

1. The EU labour market is slowly evolving from a constellation of 28 separate national labour markets into a single EU labour market: the 28 Member States remain segmented in terms of regulation of work conditions and salaries, largely due to the competences of Member State in this field, only complemented by the European Union according to article 2(1) of the TFEU. This single market is being driven by free movement of labour within the EU and EU-wide employment policy frameworks: in particular the European Employment Strategy (ESS) and its different policy

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<sup>1</sup> For instance, a Green Paper on an EU approach to managing economic migration was published back in 2005 to encourage discussion on this issue (COM(2004)811 final, <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52004DC0811&from=EN>).

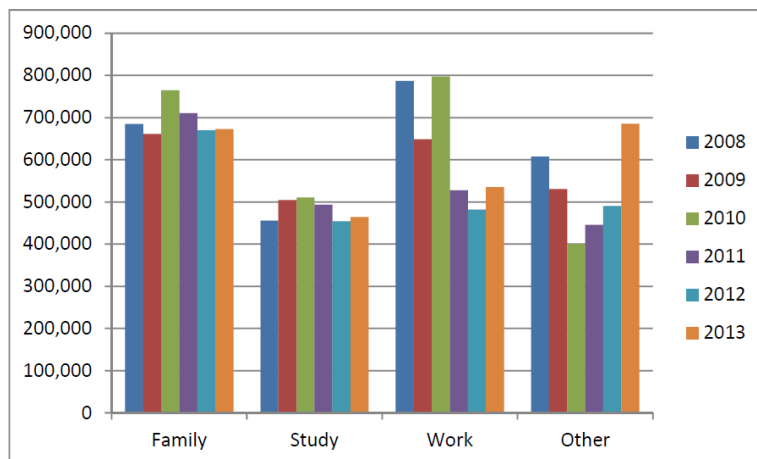
<sup>2</sup> [http://ec.europa.eu/commission/sites/cwt/files/commissioner\\_mission\\_letters/avramopoulos-mission\\_en.pdf](http://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/avramopoulos-mission_en.pdf).

<sup>3</sup> Communication COM(2015)240 final, of 13.5.2015, from the Commission to the European Parliament, the Council, The European Economic and Social Council and the Committee of the Regions, A European Agenda on Migration, [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication\\_on\\_the\\_european\\_agenda\\_on\\_migration\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf).

instruments, as developed over the last years<sup>4</sup>. A political debate on the needs for common working conditions (for instance in relation to minimum wage) has already emerged in the last months. An EU-level labour migration policy is necessary in this framework. The policy should complement the EES by facilitating the access of international migrant workers to EU labour markets to fill the gaps in intra-EU labour and skills supply.

2. To achieve that objective, any policy approach should fully integrate not only third-country nationals entering the EU for employment purposes, but also those arriving for family, asylum, education or other purposes. The current narrow approach to EU labour migration means that the EU limits itself to regulating the flows of third-country national workers receiving work residence permits in the EU for employment. However, as seen in Figure 1, these first permits granted for employment reasons (around 500,000 a year for the whole EU in 2011-2013) are less than 20% of all residence permits. Family reunification permits amount to more than 650,000 a year, and other motives, mainly asylum, are increasing steadily to stand at almost 700,000 in 2013. Over 450,000 third-country nationals get residence permits for study each year. However, a significant share of those immigrants entering the EU for non-work related reasons end up accessing the EU labour market in one way or another. Therefore, EU labour migration policies should not ignore these flows, amounting to between two thirds and three quarters of all third-country nationals entering the EU labour market. A specific policy should be developed to facilitate their smooth labour market integration, including a facilitation of migration status change once they are within the EU. For the same reasons, their number and qualification profile should be taken into account in the framework of labour migration policy planning, and more specifically in determining migrant labour needs in EU labour markets.

**Figure 1. First permits issued in the EU per reason and per year**



**Source:** Eurostat. Taken from European Commission (2015), *Better Managing Labour migration at EU Level*, Discussion paper n° 1, informal Expert Group on Economic Migration, DG Home.

3. On the other hand, legal labour migration schemes are the only mechanism Europe has to select the qualifications profile of immigrants. It cannot do so either for: family reunification beneficiaries (who are entitled to come to Europe because of their family ties, not their qualifications); asylum beneficiaries (entitled because of persecution or conflict in their countries of origin, regardless of their skills and qualifications); or even

<sup>4</sup> With a series of EU-level instruments such as the EU Employment Guidelines, the Joint Employment Report, the 2010 Agenda for New Skills and Jobs or the so-called "Employment Package" launched in April 2012, see <http://ec.europa.eu/social/main.jsp?catId=101>.

foreign students (self-selected by the investment it requires from them and their families). A key issue here is the assessment of the labour market impact of labour migration policies (see Section 4). As a general rule, the empirical research on migrants' labour integration does not distinguish the results by channel of entrance (labour, family, study and humanitarian reasons): this is because of the disaggregated data available. As a consequence, the policy implications derived from these studies that recommend a more selective labour migration policy are flawed. They are based, after all, on labour force survey data referred to international migrants as a whole and not to those who entered the EU for the purposes of employment; in this way, the data used for assessing labour migration policies refer, in practice, to a migrant population where between 50% and 70% entered the EU for reasons other than employment. In any case, the qualification profile of third-country nationals entering the EU for other-than-employment purposes and the potential to enhance it (for instance through training and job counselling services) should be taken into consideration when designing EU-wide labour migration policies.

4. Current legal migration channels are clearly insufficient to respond to the projected needs of the EU labour market and only cover some categories of potential labour migrants. Indeed, all assessments and projections in the EU labour market point to a significant need for a migrant labour force for the whole EU in the coming years and decades<sup>5</sup>. The lack of legal migration channels clearly encourages irregular migration, since the regularisation of irregular migrants remains the main way to access the EU labour market for reasons of employment. As a consequence, legal labour migration mechanisms into the EU are a necessary component of any strategy for fighting irregular migration.
5. There are a set of international bilateral migration policy dialogues between the EU and countries of origin, such as the Mobility Partnerships (MPs) and the Common Agendas on Migration and Mobility (CAMP). But the EU will not be credible here if it does not implement them in a more balanced way across their four standard components: legal migration, the fight against irregular migration, migration and development and international protection. The Commission itself acknowledged in 2014 that balance has been lacking, and among the lessons learnt of the implementation of the Global Approach to Migration and Mobility (GAMM) it pointed out that "more work needs to be done to make sure that the MPs are being implemented in a balanced manner, i.e. better reflecting all four thematic priorities of the GAMM, including more actions with regard to legal migration, human rights and refugee protection"<sup>6</sup>. In order to do so, Member States participating in those migration policy dialogues should engage themselves, in the framework of their exclusive competence in this field, to provide additional legal migration opportunities in that framework. But the offers by Member States should be integrated into a coherent EU labour migration policy framework. Such policy dialogues might also be instrumental in making a more efficient use of the family reunification strategy. This would perhaps include pre-departure language training and training in the occupations available in the destination countries for future reunified family members.

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<sup>5</sup> All macro demographic studies, projecting a quick population decline and ageing in Europe, as well as sectorial and occupational labour market projections (such as Cedefop (2013), "Future Skills Supply and Demand in Europe: Forecast 2012", *Cedefop Research Paper* n° 26), point to an increased need for foreign labour in the EU (for a review of all these projections, see EU-OECD (2014), *ibid.*, chapters 1 and 9).

<sup>6</sup> See Communication from the Commission COM(2014)96 final, Report on the Implementation of the Global Approach to Migration and Mobility 2012-2013, [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/docs/gamm\\_implementation\\_report\\_2012\\_2013\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/docs/gamm_implementation_report_2012_2013_en.pdf).

This research paper starts from available evidence on the need for labour migration within the European Union over the short-, medium- and long-term, i.e. in relation to current job market vacancies and forecasts on future labour market needs.

It then reviews the development of an EU-wide legal framework on economic migration and its status. The EU approach to legal labour migration has, to date, been very fragmented and limited. It has focused on specific categories of potential legal migrants: highly-qualified, intra-corporate transferees, seasonal workers and students and non-remunerated trainees and researchers.

The paper goes on by reviewing the existing research and evidence on the impact of EU migration policies on migration flows in the labour market, as well as the integration challenges posed by the arrival of third-country nationals. In this regard, the paper calls for a comprehensive labour market approach to EU labour migration reform, including not only economic migrants entering the EU labour market with a work permit, but also all third-country nationals ultimately accessing European labour markets. This includes, of course, family reunification beneficiaries, asylum-seekers and foreign students.

Finally, the paper reviews a series of concrete policy options for widening the legal channels for access to the European labour market in response to identified labour market needs. Here it builds on the former work of the Migration Policy Centre (2015) and focuses on the legal, technical and political feasibility of each of the options analysed.

However, these specific labour migration policy options are not sufficient to face the main challenges related to the development of an EU labour migration vision over the medium- to long-term. Here the relevant questions include the following: How to articulate intra-EU mobility and international migration to the EU labour market? How to make the EU labour market attractive for global talents as a migration destination? How to ensure that employers can tap workers from a sufficient pool of suitably qualified individuals (and that qualifications obtained abroad are recognized)? How to reduce international labour matching costs? And how to make EU- and Member States legal migration systems and competences compatible?

At the same time, throughout this paper, we take into account public opinion and political sensitiveness around the issue of migration and migrant integration into European societies (see Box 3). The policy continuum and discontinuities (ranging from public opinion to political debate, then to policy analysis, to adopted legislation, to actual implementation and to measurable impact) is the context in which all proposed actions and legislation have to be framed.

## 2. LABOUR MARKET SHORTAGES AND LABOUR MIGRATION NEEDS IN THE EU: REVIEW OF THE EXISTING EVIDENCE

### KEY FINDINGS

- Today, in most Member States' labour markets **high unemployment and underemployment levels coexist with substantial labour shortages as perceived by employers.**
- Whereas there is not an overall quantitative labour shortage for the whole EU, **several studies find the existence of qualitative labour market shortages for specific skill levels/sectors/occupations.**
- **The vast majority of shortages are, indeed, related to low skilled occupations.** Specifically, occupation groups like metal, machinery and related trade workers, building and related trade workers, personal service workers and sales workers are the most needed.
- **Highly-skilled profiles are, instead, needed only in a limited number of occupations and countries, with significant difference among Member States.** Overall, these findings confirm that, today, in the EU highly-skilled qualifications are needed only to a limited extent.
- Accordingly, **any strategy addressing labour needs in the EU – including highly-skilled migration schemes – should be geared to national labour markets' needs and be strongly sector-oriented.**
- **In terms of labour needs forecasts,** for the period 2010-2020, supply and demand are roughly aligned for jobs requiring medium qualifications. Meanwhile, an oversupply of highly-skilled workers is expected resulting in a likely increase in overqualification rates. In contrast, the demand for jobs requiring low qualifications is expected to rise faster than the supply.
- **By looking together at different forecasts available, it can be stated that international migration is poised to play a major role in filling the EU's labour market needs.** Accordingly, redesigning pro-immigration policies should be a complementary response to current and future European labour supply dynamics.
- **Circular and temporary migration schemes** can help deal with demographic and labour market challenges in Europe. However, **permanent migration** should be encouraged, as well, in order to maintain social cohesion and capitalize on migrant skills development and integration.

Increasing knowledge about current and future labour market needs in the European Union and its Member States is crucial and lies at the heart of the EU's Agenda for New Skills and Jobs: this was launched in 2010 as part of the Europe 2020 Strategy. Anticipating labour market shortages will, indeed, contribute both to assess future needs and to actively shape them (European Commission, 2010). In contemporary societies, not only *quantitative labour shortages* but also and especially *qualitative labour shortages* are

worth monitoring. Qualitative labour shortages may occur when employers are unable to find the required *skills* for a specific job or, conversely, because jobseekers with required skills *do not want* to fill a vacancy for low salaries, bad working conditions, scarce career perspectives, etc. These labour shortages can be observed at a skill, sector or occupation level.

This section presents the core literature aiming at individuating labour market shortages at both the EU and – when data allow for it – at Member State (MS) level. Indeed, though there is some progress towards a single labour market in the EU, EU labour markets are still segmented in terms of regulations of work conditions and salaries (Martin and Venturini, 2015), as well as drivers of labour supply and demand. Consequently, they face different labour shortages in quantitative and qualitative terms. Existing studies differ in terms of geographical coverage (aggregate vs. national studies), time span (current estimates vs. forecasts), methodology (imbalances between labour supply and demand vs. employers' surveys, etc.) and the shortage type (skill, sector, occupation). Here we will present their core findings. Specifically, we will first review those analyses focusing on *current* labour market shortages, followed by another set of studies which, instead, forecast *future* labour market shortages in the short to medium term. Emphasis will be put on skill, sector and occupational shortages while highlighting how international migration could help address labour imbalances. A synthetic comparative overview of all studies' characteristics is reported in Box 1.

**Box 1. Review of major studies aimed at assessing current (a) and future (b) labour market needs in the EU**

a. CURRENT NEEDS						
Source	Type of shortages	Geographical coverage	Covered period	Level of detail	Method for measuring labour shortages	Results
Reymen <i>et al.</i> , European Parliament, 2015	Quantitative shortages	EU and EU MSs	2008-2014	All	Imbalance between labour demand and supply (UV Beveridge Curve)	At EU level: 1. No evidence of quantitative labour shortages; 2. The matching process of job-seekers with vacancies has become relatively less efficient after following the crisis; At EU MS level: 1. A POSITIVE labour market outlook in AT, BE, DE, UK, with relatively tight labour markets. 2. A NEGATIVE labour market outlook in EL and ES with very high unemployment with low vacancy rates (high job competition).
	Qualitative shortages	EU and EU MSs	2000s	Skill	Qualification mismatch	1. The highest incidence of over-qualification in EL, ES, LT, ES, PT, IE and IT; 2. The highest incidence of under-qualification in FR, IE, BE, UK and FI
Employer Company Survey (in Eurofound, 2015)	Qualitative shortages	28 EU MSs (+ IS, MK, ME, TK)	2013	Skill	Employers' opinions	39% of companies find difficulties in recruiting employees with the required skills, especially in the manufacturing sector (43%)
Talent Shortage Survey (in ManpowerGroup, 2015)	Qualitative shortages	19 EU MS (+ IS, SA, CH, TU, NO)	2015	Skill	Employers' opinions	38% of employers have difficulties in filling jobs due to lack of available talent
European Business and Consumer Survey (on-line)	Qualitative shortages	EU and EU MSs	2003-2015	Sector	Employers' opinions	Within all sectors, perceived shortages dropped consistently just after the crisis in 2009 to return at pre-crisis levels only in recent years (2014/2015) in the manufacturing and service sector.
European Commission Study (in EC, 2014)	Qualitative shortages	EU MSs (+ IS, NO, LI)	2012-2014	Occupation	Mixed method (employers' surveys; imbalance indicators..)	1. Identification of the top-twenty bottleneck occupations; 2. The need of highly-skilled profiles differs greatly across EU MSs;

*(continues)*

**Box 1. Review of major studies aimed at assessing current (1a) and future (1b) labour market needs in the EU (cont.)**

b. FUTURE NEEDS						
Source	Type of shortages	Geographical coverage	Covered period	Level of detail	Method for measuring labour shortages	Results
Cedefop (in Cedefop, 2012)	Qualitative shortages	EU MSs (+ NO, CH)	2010-2020	Skill, occupation	Forecasting methods	<ol style="list-style-type: none"> <li>1. Europe will be very unlikely to face difficulties in filling the demand for highly-educated workers;</li> <li>2. The most significant shortages are in low-skilled occupations;</li> <li>3. At medium-skilled level, demand and supply are roughly aligned;</li> <li>4. Large heterogeneity is observed across countries.</li> </ol>
Fargues and colleagues (in Fargues, 2014; Fargues and McCormick, 2013; Fargues, 2011)	Quantitative shortages	EU MSs	2010-2030	Occupation	Two-scenario projections (with/without migration)	<ol style="list-style-type: none"> <li>1. Looking at <i>shrinking dynamics</i>: In case of no migration between 2010 and 2050, the EU27 would lose 87 million persons of working age (-27%). All Member States without exception would lose population at working age. If international migration would instead continue at pre-crisis levels, the loss would be reduced to -37 million or -12% (Fargues, 2011);</li> <li>2. In terms of <i>(skills) ageing dynamics</i>, in the no-migration scenario, the employed population aged over 45 years of age remains fairly consistent with an increase of less than 6%, while the population aged 20-44 will decrease by over 16%;</li> <li>3. Large heterogeneity is observed across occupations and countries.</li> </ol>



## 2.1. Assessing current labour market shortages

According to existing assessments, there is no evidence in the EU of overall *quantitative* labour shortages defined as a “sustained market disequilibrium between supply and demand in which the quantity of workers demand exceeds the supply available and willing to work at a particular wage and working conditions at a particular place and point in time” (Reymen *et al.*, 2015).

However, in many EU Member States high unemployment and underemployment coexist with a high number of employers declaring difficulties in filling vacancies. For instance, the 2013 Employer Company Survey and the 2015 Talent Shortage Survey found that four out of ten European companies found difficulties in recruiting employees with the required skills (Eurofound, 2015; ManpowerGroup, 2015), especially in the manufacturing sector (43%) (Eurofound, 2015).

In other terms, *qualitative* labour market shortages and mismatches do exist despite the absence of overall *quantitative* shortages.

Why does this happen? Employers often argue that young graduates have the wrong skills (Cedefop, 2014). However, several factors other than skill-deficits drive these trends. Among them, it is worth mentioning low labour mobility, seasonal shifts in demand, imperfect information about job opportunities, wage rigidities, unattractiveness of working conditions, and inefficient recruitment and training strategies. All these factors affect labour market dynamics in an heterogeneous manner according to skill, sector and occupation. Accordingly, we will discuss below the magnitude and the characteristics of current qualitative labour market shortages.

To what extent do qualitative shortages affect European labour markets? Which are the skills, sectors and occupations that are most concerned? In terms of skills, firms continue to report difficulties finding the right skills and thus stress skill shortages<sup>7</sup> in today’s labour markets (Eurofound, 2015). However, as highlighted by Cedefop (2014), this argument seems not fully convincing. Weak labour market demand and high unemployment is creating other types of more notable skill mismatches, particularly overqualification.

In the EU, in 2011, around 29% of highly-qualified workers were in jobs requiring low- to medium qualification levels (Labour Force Survey data in Cedefop, 2014). At a MS level, in the 2001-2011 period, the highest incidence of over-qualification was observed in Greece (26%), Lithuania (23%), Spain (22%), Portugal (21%), Ireland (21%) and Italy (21%) (Reymen *et al.*, 2015).

Even if imbalances between supply and demand by skills are inevitable in imperfect labour markets, widespread labour overqualification challenges European economic goals. At a macro-economic level, these dynamics strongly contribute to structural unemployment and reduce GDP growth through workforce underutilization and productivity reduction (WEF, 2014).

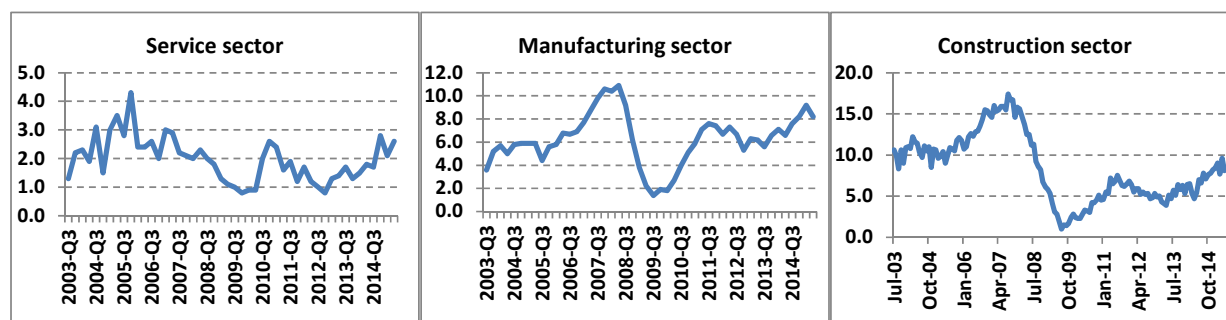
Even when a workforce with the appropriate skills is available, shortages can occur at the sectoral level (Reymen *et al.*, 2015). In the EU, “perceived” sector shortages can be inferred from the Eurostat Business and Consumer Survey. This survey asks managerial staff of EU

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<sup>7</sup> Skill shortages occur “when employers are unable to recruit staff with the required skills in the accessible labour market and at the on-going rate of pay” (Quintini, 2011).

companies to assess the main factors limiting their production, including labour shortages. In the 2003-2015 period, the highest perceived labour shortages were observed in the construction sector, though cross-country differentials varied over time. Within all sectors, shortages dropped consistently just after the crisis in 2009 to return to pre-crisis levels in the manufacturing and service sector only in recent years (2014/2015) (Figure 2).

**Figure 2. Perceived labour shortages by employers in the EU, 2003q2-2015q2, % values**



**Source:** Author's elaboration on the basis of 2015 Eurostat Business and Consumer Survey.

There are some EU countries where labour shortages are, instead, observed within the crisis period, namely Germany (construction and service sectors), the UK (industrial sector) and a few others.

Finally, a greater level of detail can be detected when looking at occupational shortages, which are broadly identified as occupations for which it is "difficult to fill vacancies" (EC, 2012). A recent project carried out by the European Commission – using the European Vacancy Monitor in combination with national data – focuses on the so-called bottleneck occupations: these occur when employers have problems in recruiting staff for specific occupations and/or it takes a long time for these occupations to be filled. Table 1 shows the top 20 bottleneck occupations (ISCO 2 and 4 digit) as identified by the study.

**Table 1. Top 20 bottleneck occupations (ISCO-2 and ISCO-4 level) in the EU (a)**

Bottleneck vacancies at ISCO-2 and ISCO-4 levels	N.of bottleneck vacancies reported	N. of countries with bottlenecks (*)	Reasons for shortages
<b>72. Metal, Machinery and related trades workers</b>	<b>53</b>	<b>23 (AT, FR, IT, LV, UK)</b>	Scarce job attractiveness
7212. Welders and flamecutters	10		
7223. Metal working machine tool setters and operators	9		
<b>21. Science and engineering professionals</b>	<b>48</b>	<b>22 (SE, DK, BE, AT, SK)</b>	Lack of skills
2144. Mechanical engineers	9		
2151. Electrical engineers	8		
2142. Civil engineers	6		
<b>25. Information and communications technology professionals</b>	<b>47</b>	<b>20 (BE, DK, IT, LV, SE)</b>	Lack of skills
2512. Software developers	9		
2511. System analysts	7		
<b>22. Health professionals</b>	<b>45</b>	<b>21 (CZ, FI, FR)</b>	Scarce labour mobility
2221. Nursing professionals	10		
2212. Specialist medical practitioners	10		

(continues)

**Table 1. Top 20 bottleneck occupations (ISCO-2 and ISCO-4 level) in the EU (a) (cont.)**

Bottleneck vacancies at ISCO-2 and ISCO-4 levels	Number of bottleneck vacancies reported	N. of countries with bottlenecks (*)	Reasons for shortages
<b>71. Building and related trades workers, excluding electricians</b>	<b>41</b>	<b>18 (AT, IT, PO, PT, RO)</b>	Scarce job attractiveness
7115. Carpenters and joiners	11		
7126. Plumbers and pipe fitters	8		
<b>51. Personal service workers</b>	<b>32</b>	<b>22 (CR, CY, HU, LV, PO, SK)</b>	Scarce job attractiveness
5120. Cooks	17		
5131. Waiters	7		
<b>31. Science and engineering associate professionals</b>	<b>29</b>	<b>14 (AT, BE, SE, UK)</b>	Lack of skills
<b>52. Sales workers</b>	<b>14</b>	<b>13 (DK, FI, HU, IT, PO, UK)</b>	Scarce job attractiveness
5223. Shop sales assistants	6		
<b>83. Drivers and mobile plant operators</b>	<b>21</b>	<b>16 (PO, CZ, HU, LV)</b>	Scarce job attractiveness
8332. Heavy truck and lorry drivers	8		
<b>75. Food processing, wood working, garment and other craft and related workers</b>	<b>20</b>	<b>12 (HU, LV, RO, CR)</b>	Scarce job attractiveness
<b>23. Teaching professionals</b>	<b>17</b>	<b>12</b>	n.a.
2341. Primary school teachers	6		n.a.
<b>33. Business and administration associate professionals</b>	<b>15</b>	<b>13</b>	n.a.
3322. Commercial sales representatives	6		n.a.
<b>24. Business and administration professionals</b>	<b>17</b>	<b>11</b>	n.a.
2411. Accountants	7		n.a.
<b>74. Electrical and electronic trades workers</b>	<b>15</b>	<b>12</b>	n.a.
7411. Building and related electricians	6		n.a.
<b>81. Stationary plant and machine operators</b>	<b>13</b>	<b>9</b>	n.a.
<b>91. Cleaners and helpers</b>	<b>8</b>	<b>8</b>	n.a.
<b>96. Refuse workers and other elementary workers</b>	<b>6</b>	<b>5</b>	n.a.
<b>53. Personal care workers</b>	<b>9</b>	<b>6</b>	n.a.
5321. Health care assistants	3		n.a.
<b>12. Administrative and commercial managers</b>	<b>11</b>	<b>6</b>	n.a.
<b>92. Agricultural, forestry and fishery labourers</b>	<b>5</b>	<b>3</b>	n.a.

(a) Occupations are ranked by ISCO-2 level. The highest the ranking position the more difficult to fill vacancies. Ranking criteria are various, namely the number of bottleneck occupations and countries and the position they cover at a country level (i.e. whether they are in the top-5 or top-20 position). For more details, see EC, 2014.

**Source:** Author's elaboration on EC, 2014 and Kalantaryan and Martin, 2015.

Overall, only eight occupation groups (ISCO-2) and ten occupations (ISCO-4) out of twenty require highly-skilled qualifications (highlighted in grey). Among them, the highest ranks are related to three broad groups: science and engineering; information and communications technology; and health professionals. In terms of occupations, mechanical, electrical and civil engineers as well as software developers and system analysts, nursing professional and specialist medical practitioners are the most requested careers.

The vast majority of shortages are, instead, related to low skilled occupations. Specifically, occupation groups like metal, machinery and related trade workers, building and related trade workers, personal service workers and sales workers are the most needed.<sup>8</sup>

At a disaggregate level, highly-skilled profiles are critically needed only in some Northern (Sweden, Denmark) and Western (Austria, Belgium and Germany) MSs, where graduate unemployment is almost frictional at around 4% (Kalantaryan and Martin, 2015). The need for both high and low skilled qualifications coexists, instead, in countries such as France and the UK, while in Southern European countries (e.g. Italy, Portugal, Cyprus, where graduate unemployment exceeds 8%) and some Eastern MSs (such as Romania, Poland, Latvia, Slovakia, Hungary, and Croatia) low and medium skilled profiles are more in demand.

Overall, these findings confirm that, today, in the EU highly-skilled qualifications are needed only to a limited extent. Among them, only specific occupations are requested, with significant differences between MS. Accordingly, any strategy addressing labour needs in the EU – including highly-skilled migration schemes – have necessarily to be geared to national labour markets' needs and to be strongly sector-oriented.

## **2.2. What about the future? Can international migration play a role?**

Significant labour market imbalances are expected to persist in the coming decades, as showed by the forecasts elaborated by the European Centre for Development and Vocational Training (Cedefop). Cedefop provides the European Commission with forecasts on trends in skills supply and demand for Europe on a two-year basis. Being based on time-series analysis, imbalances between the supply of people's skills – measured by their formal qualification level – and demand for skills – measured by the typical qualifications needed for various occupations – indicate the situation as it "will evolve if current trends in sectors, occupations and qualification levels continue".

According to 2012 Cedefop forecasts<sup>9</sup>, in the period 2010-2020 supply-demand<sup>10</sup> matching trends will differ by skills. First, supply and demand are roughly aligned for jobs requiring medium qualifications. This labour market segment – which is by far the largest one in the market – will thus be in a balanced situation. Opposite trends will, instead, be observed for occupations requiring high and low skills. The most critical situation concerns jobs requiring high qualifications. Here, the supply is expected to grow faster than demand. The main reason is to be found in the fact that the scarcity of job opportunities has pushed more young people to stay in education or training. Thus, an oversupply of highly-skilled persons is likely to occur, resulting in a likely increase in over-qualification dynamics. On the contrary, the demand for jobs requiring low qualifications is expected to rise faster than supply. Though not severe, specific shortages may be observed in this labour market segment (Cedefop, 2012).

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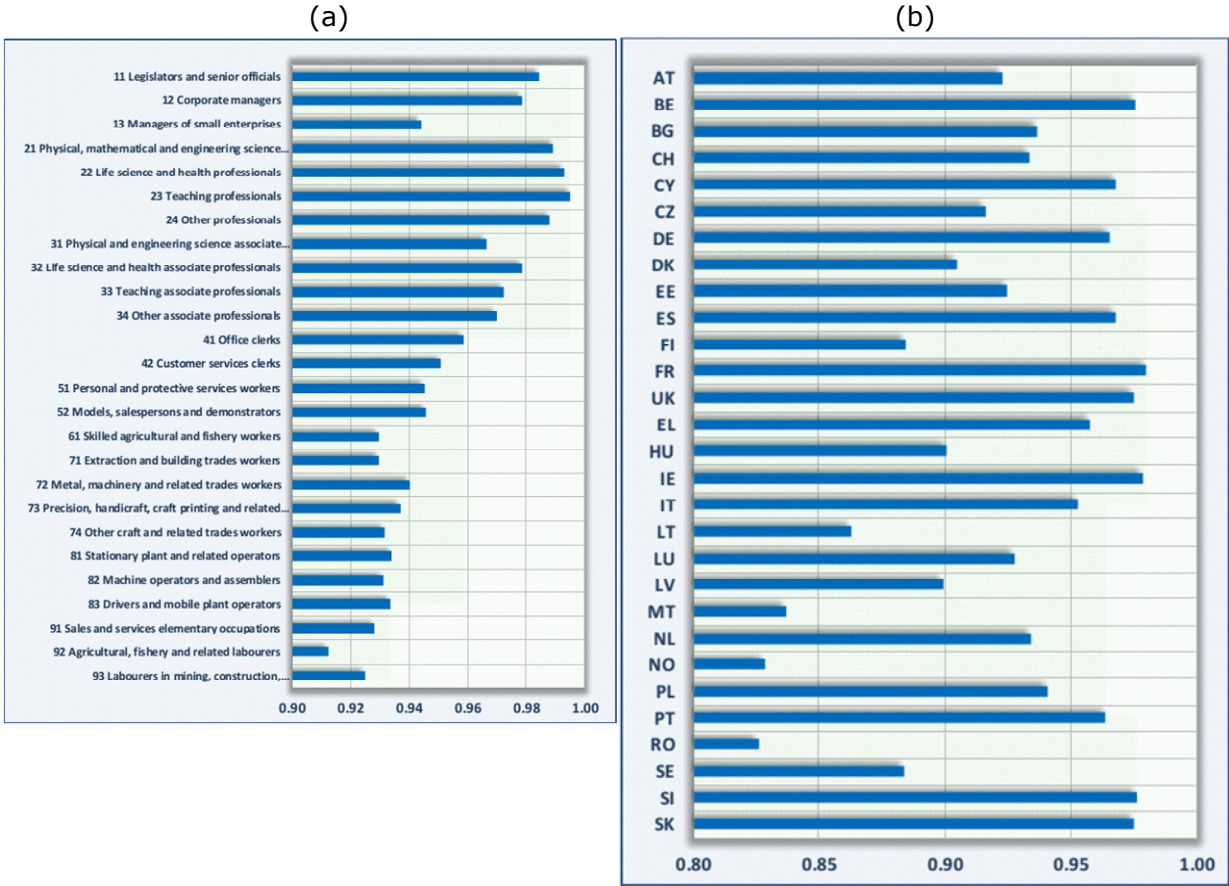
<sup>8</sup> On identified shortage occupations in Member States, see EMN 2015b, and in particular its Annex 4 (Top 15 Professionals included in lists of shortage occupations by country).

<sup>9</sup> 2014 Cedefop forecasts – published in June 2015 – are not presented here because they do not contain specific information on shortages. Though they contain forecasts about future supply and demand trends, no interplay between the two (matching supply and demand) has yet been presented.

<sup>10</sup> Supply is measured by the labour force while the demand trend is measured by employment.

An heterogeneous situation is observed, though, at a sector and country level. So, Figure 3 captures labour shortages by the Indicator of Future Imbalances of the Demand (IFIOD)<sup>11</sup> indicator.

**Figure 3. IFIOD values by sector (a) and country (b), EU27, Norway and Switzerland, 2010-2020**



Source: Cedefop, 2012.

Figure 3a clearly confirms that Europe will be very unlikely to face difficulties in filling the demand for highly-educated workers. In contrast, the most significant shortages are in occupations at the lower end of ISCO, namely agricultural, fishery and related labourers, sales, services and elementary occupations, labourers in mining, etc. This is likely to result in increased competition for low skilled occupations and, consequently, higher over-qualification rates together with increasing risks of crowding-out job dynamics of lower-skilled people by highly-skilled ones.

The problematic labour market insertion of highly-skilled people is thus confirmed. Not surprisingly, the largest difficulties in recruiting the appropriate skill mix will be felt in countries characterized by high shares of highly-skilled workers (Finland and Norway); as well as in countries supporting education pathways for young people to compensate for lack of opportunities such as Lithuania, Hungary and Romania (Figure 3b) (Cedefop, 2012).

<sup>11</sup> The IFIOD indicator summarizes the overall supply-demand relationship of qualification levels. The closer the indicator is to one, the lower the difficulties in recruiting the appropriate skill mix (for further details, see Cedefop, 2012).

In line with its results, Cedefop's core recommendation is to invest in the creation of skills-intensive jobs that will efficiently utilize the rich set of skills possessed by the European workforce and will not allow them to become obsolete (Cedefop, 2012). Certainly, cross-country differences must be taken into account in this regard.

Despite their relevance, Cedefop's forecasts have three main limitations:

1. They do not provide any information about the field of study, while it is known that skill mismatches are often about the lack of "right skills" and the mismatch between what people study and the disciplines required by the labour market;
2. results on shortages at a MS level are scarcely available;
3. there is no mention of the role which international migration (i.e. the variable country of birth/country of citizenship) may play over the short/medium term.

In recent times, points 2 and 3 have been addressed by Fargues and his colleagues in a number of studies<sup>12</sup>. They have shown the role of migration on population dynamics by showing two population scenarios which, in turn, include and exclude international migration flows.<sup>13</sup> Complementarily, working age population (or workforce) trends are not only analysed in terms of shrinking but also of ageing dynamics. Indeed, while the decline of the EU's workforce certainly undermines the EU's production and wealth (Fargues, 2011), its ageing poses other severe challenges. With the gradual shift from younger to older manpower, there has been an elevation of the average duration of time elapsed since the termination of formal education. This translates into outdated knowledge among the labour supply. A reduction in the number of young working people has resulted in a parallel reduction in the mass of recently acquired education, formal knowledge, and skills in the fields where up-to-date knowledge matters more than experience. This is also likely to affect labour force productivity and its potential to innovate. Fargues and McCormick refer, in fact, to the "ageing of skills" (Fargues and McCormick, 2013).

Looking at shrinking dynamics, Fargues found that if no migration was to take place between 2010 and 2050, the EU27 would lose 87 million persons of working age (-27%). All Member States without exception would lose population at working age. If international migration would instead continue at pre-crisis levels, the loss would be reduced to -37 million or -12% (Fargues, 2011). Together with other policies, migration thus largely contributes to the working age population's absolute decline. Of specific interest for this review, Fargues and McCormick (2013) developed medium term projections restricted to the employed population by occupation and age. Accordingly, in the no-migration scenario, between 2010 and 2025, the employed population will decrease from 220 to 204 million, i.e. -7.4% of its initial value in 2010<sup>14</sup>.

In terms of (skills) ageing dynamics, in the no-migration scenario, the employed population aged over 45 years of age would remain fairly consistent with an increase of less than 6%: while the population aged 20-44 will decrease by over 16% (Figure 3) in the no-migration scenario.

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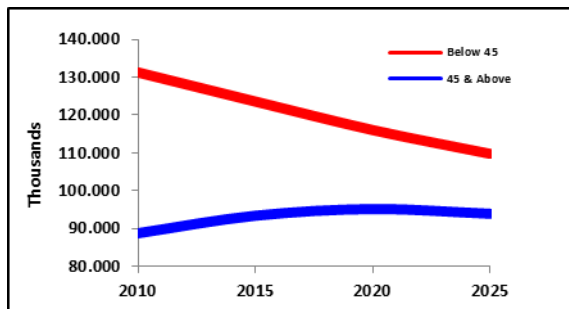
<sup>12</sup> See e.g. Fargues, 2014; Fargues and McCormick, 2013; Fargues, 2011.

<sup>13</sup> Other notable studies looking at the impact of international migration on population and skill dynamics are OECD, 2014 and OECD, 2011.

<sup>14</sup> Here, it is assumed that the rate of economic participation remains unchanged across the projected period.



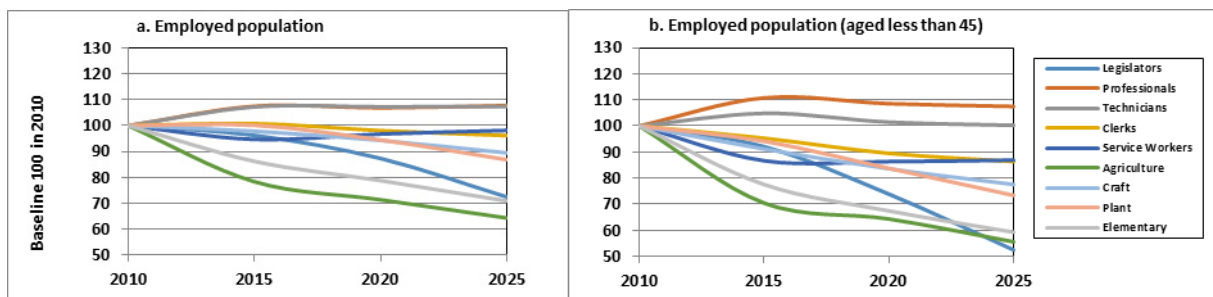
**Figure 4. Projection of the EU27 labour force by broad age group. 2010-2025. No migration scenario**



Source: Fargues, 2011.

However, not all occupations in the EU will see a sizeable decline (Figure 5.a) and ageing process (Figure 5.b).

**Figure 5. Projections of the employed population by age and occupation. 2010-2025. No migration scenario**

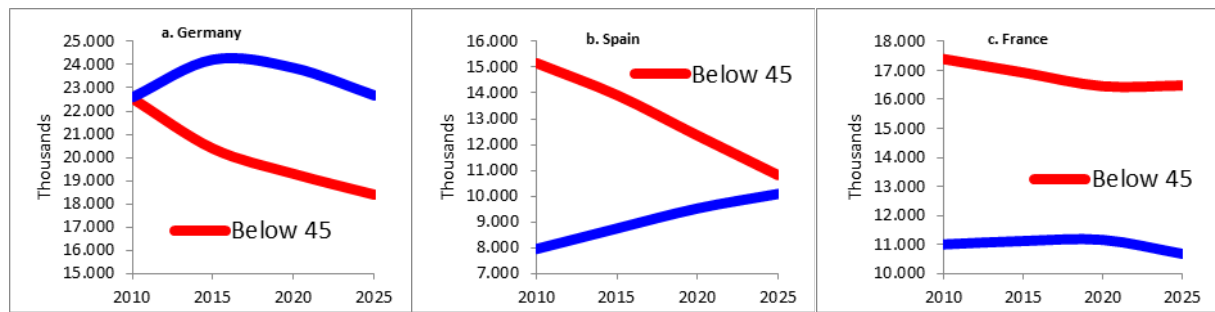


Source: Fargues and McCormick, 2013.

Groups of occupations such as legislators, elementary and agricultural workers will face the most critical population shrinking and ageing of skills. The impact upon the future productive capacity of each industry that these occupations provide labour for will clearly be significant and undesirable (Fargues, 2011). By looking together at Cedefop and Fargues' results, we can certainly say that international migration is poised to play a major role here.

As already noted, these dynamics differ largely according to EU MS, as showed by the cases of France, Germany and Spain. Whereas France (Figure 6c) has a more positive demographic picture, with the population aged below 45 remaining higher than the workforce aged 45 and over, Spain on the other hand (Figure 6b) has a more dramatic trajectory, with the two age groups almost being equal by the end of the projection period (2025). Germany's trends (Figure 6a) are instead similar to the overall EU27 average.

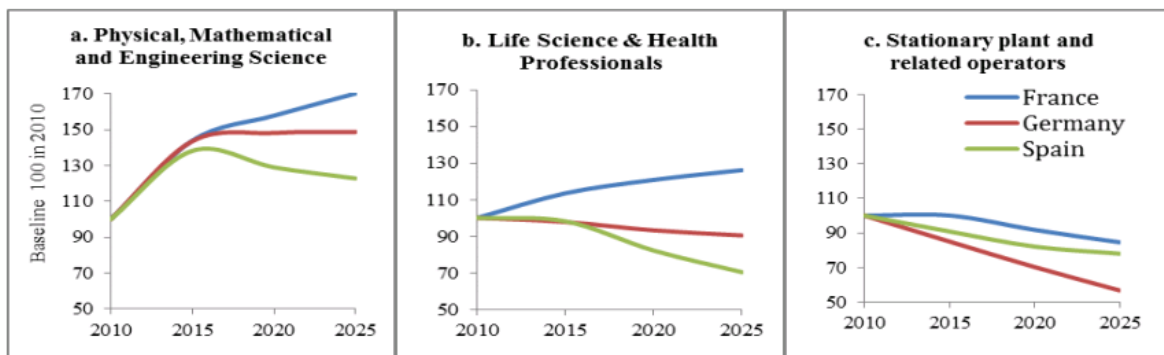
**Figure 6. Projection of the labour force by broad age group, Germany, Spain and France. 2010-2025. No migration scenario**



Source: Fargues and McCormick, 2013.

Although the demographic momentum in each country will see a reduction in their respective populations, the impact will be felt much more in Spain than in France, especially in terms of the ageing of skills. When looking at specific occupations, Figure 7a shows that there will be an increased supply of engineers aged below 45. Health professionals are another occupation that requires high levels of education. However, France is the only country projected to have an increased supply of people aged below 45 in 2025, with Germany having a very small reduction, whilst Spain is likely to experience a significant decline in supply (Figure 7b). In more elementary occupations, the demographic effects of ageing are also clear. For example, in Figure 7c reductions are experienced in all three countries. However France continues to have the highest relative share of stationary plant and related operators. The impact of skills' ageing and workforce shrinking is, therefore, diverse across EU states.

**Figure 7. Projection of selected occupations among persons below 45 years. Germany, Spain and France. 2010-2025. No migration scenario**



Source: Fargues and McCormick, 2013.

In line with these findings, Fargues (2014) concludes that redesigning pro-immigration policies would be a complementary response to current and future European labour supply dynamics.

Together with other policies, a major solution would be encouraging temporary and circular migration which is both useful for filling labour shortages and for maintaining a sustainable demographic situation. Indeed, while permanent migrants are subject to the same ageing process as natives – implying a continuous rising number of migrants to compensate for retiring natives –, temporary migrants will return to their country of origin before or at retirement. In so doing, it increases the size of the population at working age but not (or only by a small margin) at young and old ages (Fargues, 2011).



However, encouraging only temporary or circular migration is seen as problematic by these authors. Very high percentages of temporary migrants – necessary for curbing demographic trends – are considered to be socially and politically unsustainable. Temporary migration brings non-citizens with no prospect for, or no interest in, acceding to citizenship. They have only limited membership in the host society and share very little with its members. They can only constitute a small minority of the population, unless one regards the segmented societies built in the oil states of the Gulf as a model for Europe. Accordingly, Fargues (2011) strongly recommends that “former policies favouring settlement through family reunification should not be abandoned, but should coexist with those favouring the circulation and return of migrants”.

### 3. A BRIEF CRITICAL OVERVIEW OF THE EXISTING LEGAL FRAMEWORK FOR LABOUR MIGRATION AT THE EU LEVEL

#### KEY FINDINGS

- After an attempt in 2001 to adopt a comprehensive approach to economic migration to the EU, **EU legislation has opted for a “category-by-category” approach. To date this has focused on students, researchers, highly-qualified migrants, seasonal workers and intra-corporate transferees**: there is also a proposal amending the 2004 Students Directive and the 2005 Researchers Directive that has not yet been adopted.
- **According to the Treaty on the Functioning of the European Union, Member States continue to determine the numbers of third-country nationals** seeking work, whether employed or self-employed. This rules out the possibility of EU quotas for migrant workers, and, in fact, the idea has never been raised.
- **Beneficiaries of family reunification and international protection, as well as foreign students, can also access Member State labour markets** under certain specific conditions. Member States have some discretionary powers in this regard.
- **Assessments of the implementation of the Researchers Directive (2011) and the Blue Card Directive on highly-qualified migrants (2014) show low rates of use.** In both cases, as with the Seasonal Workers Directive, the wide power of discretion retained by Member States undermines the potential of directives.
- Beyond the very conditions of admission, **intra-EU mobility of third-country nationals remains a key component of EU labour migration policy and one of the biggest failures** in European immigration policy.
- Overall, the **EU labour migration system lacks effective coordination mechanisms between Member States** for policy implementation at the EU level.

The allocation of labour migration competences between the Union and its Member States remains a sensitive political issue. While the Amsterdam Treaty envisaged the progressive “supranationalisation” of the immigration and asylum policies, it is only the Lisbon Treaty that finalised this process for legal migration. Since then, the relevant decision-making process has been subject to ordinary legislative procedure, as enshrined in Article 79(2) TFEU. It, therefore, requires qualified majority voting in the Council together with a co-decision from the European Parliament. However, Member States could only accept this change by obtaining a reserve of competence negotiated during the Convention that prepared the European Constitution: following article 79(5) TFEU, Member States remain competent to determine the volumes of admission of third-country nationals coming from third-countries in order to seek work, whether employed or self-employed. This prevents the adoption of migrant worker quotas at the EU level, and, in fact, the idea has never been raised. In practical terms, as we will see below, even in areas subject to EU directives, significant differences in Member State legislative systems remain and many aspects of labour migration are still left to the discretion of the Member States.

Since the entry into force of the Amsterdam Treaty in 1999, the regulation of labour migration has become a major issue, leading to a significant increase in legislative measures over the last years. Following the conclusions of the European Council of Tampere, the Commission presented, in 2001, its first proposal aimed at defining the conditions of entry and residence for third-country nationals (TCNs) coming for the purpose of paid employment and self-employment.

The Commission canvassed for a comprehensive approach regulating conditions independently of workers' qualifications. However, as it faced strong opposition from most Member States, the proposal was finally withdrawn. After this failure, the Commission organised, in 2005, a public consultation on the basis of the Green paper on "An EU approach to managing economic migration".<sup>15</sup> Notwithstanding concerns expressed by the European Parliament and the European Economic and Social Committee, the Commission changed its strategy and opted for a "category-by-category" (not to be confused with a "sectoral") approach, instead of horizontally covering all TCNs entering EU territory for economic purposes. In this regard, it is worth recalling that the adoption in 2005 of the Researchers Directive marked a turning point<sup>16</sup>. For the first time, an innovative mechanism allowed specifically selected research organizations to conclude hosting agreements with TCN researchers coming to carry out a research project in the European Community for more than three months. Entry, residence and mobility were facilitated for this category, and a work permit was no longer required.

Addressing the need to develop common rules in the field of labour migration, the Commission presented in 2005 a new Policy Plan on Legal Migration. It listed a range of legislative measures in order to better manage labour migration at the EU level<sup>17</sup>. There were some general points including a general framework directive intended to guarantee TCN rights in legal employment and a single application procedure for a joint work and residence permit. However, all the other instruments that have been adopted break down according to the category of third-country workers concerned: first, a Blue Card Directive designed to attract highly-qualified workers from third-countries to the European Union; second, a directive on seasonal workers; and, third, a directive on Intra-corporate transferees (ICTs); while the idea of a fourth instrument for remunerated trainees expressed in the policy plan has been abandoned.

Workers, however, are not the only third-country nationals to access the labour market of EU Member States. Migrants initially admitted for non-economic purposes (thus entering through different legal immigration channels), also have access to employment or self-employment, either immediately after their admission or after a certain waiting period. In particular, family members of third-country nationals are entitled, in the same way as the person they are joining, to (self)-employment. The host Member State does, though, keep a margin of appreciation and may impose some conditions and restrictions on access<sup>18</sup>. Indeed, according to the Commission's last report adopted on the application of Directive 2003/86/EC in 2008<sup>19</sup>, most Member States require a work permit or make access conditional on a labour market test during the first twelve months. That being said, the transposition of the directive into Member State legislation usually gives admitted family

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<sup>15</sup> EC, Green Paper on an EU approach to managing economic migration, 11 January 2005, COM(2004)811.

<sup>16</sup> Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research.

<sup>17</sup> EC, Policy Plan on Legal Migration, 21 December 2005, COM(2005)669 final.

<sup>18</sup> Article 14 of Directive 2003/86/EC.

<sup>19</sup> EC, Report on the application of Directive 2003/86/EC on the right to family reunification, COM(2008)610 final, p. 13.

members easier access to employment. In its 2014 guidance to Member States on how to apply Directive 2003/86, the Commission stressed the need to keep restrictions on labour market access for family members to a minimum. The Commission particularly argued for access for migrant women<sup>20</sup>.

Beneficiaries of international protection can also engage in employed or self-employed activities immediately after the protection status has been granted<sup>21</sup>: they are, though, subject to rules generally applicable to regulated professions and to public administration. For both refugees and beneficiaries of subsidiary protection, the Commission reported that the vast majority of Member States authorise access to the labour market: only three Member States apply the limitation allowed by the Directive<sup>22</sup>. Additionally, asylum seekers cannot be denied access to the labour market and vocational training, once six months have passed since lodging their application. In this last case, however, Member States have a great degree of control of their internal labour market and can decide, for instance, the kind of work asylum applicants may apply for; or the time they are allowed to work per month or per year<sup>23</sup>.

While initially entering the EU for studies, students are also entitled to (self) employment under certain conditions<sup>24</sup>. In this regard, the CJEU has ruled that a labour market preference test applied by Member States for students was not compatible with Directive 2004/114<sup>25</sup>. According to the 2012 EMN Synthesis report on the immigration of international students to the EU<sup>26</sup>, over two million first residence permits were issued in 2011 to third-country nationals and 21% of these were for education. Approximately 190,000 were issued for study purposes, as per the Students Directive 2004/114.

Finally, third-country nationals who have acquired long-term resident (LTR) status in their host Member State enjoy, after five years of stay, equal treatment with nationals, as regards access to paid and unpaid employment, without prejudice of possible national restrictions and additional requirements (e.g. proof of appropriate language proficiency)<sup>27</sup>. In 2011, the Commission reported that the legislation in seventeen Member States included a restriction or excluded LTR's from activities involving the exercise of public authority. A few countries, meanwhile, applied restrictions on access to employment after the first twelve months in breach of the Directive<sup>28</sup>.

From a statistical point of view, the majority of TCNs accessing Member State labour markets enter the country for non-economic purposes (see Figure 1 in Section 1). Whereas such figures are welcome in terms of integration and employment rates, they also underline the need to better deal with the current labour migration policy by developing a consistent and comprehensive strategy in this field. Undeniably, the ability to assess the volume of workers needed in labour markets and to target the wide diversity of working migrants' profiles is challenging. Apart from legislative harmonisation, this means enhancing

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<sup>20</sup> EC, Communication on guidance for application of Directive 2003/86 on the right to family reunification, COM(2014) 210 final.

<sup>21</sup> Article 26 of Directive 2004/83 (Qualification).

<sup>22</sup> EC, Report on the application of Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise in need of international protection and the content of the protection, COM(2010) 314 final.

<sup>23</sup> Article 11 and 12 of Directive 2003/9 (Reception).

<sup>24</sup> Article 17 of Directive 2004/114 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service.

<sup>25</sup> CJEU, C-15/11, *Sommer*, 21 June 2012.

<sup>26</sup> EMN, Synthesis report on Immigration of International Students to the EU, 2012.

<sup>27</sup> Article 11 of Directive 2003/109.

<sup>28</sup> EC, Report from the Commission on the application of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents, COM(2011)585 final.

coordination between Member States when implementing these instruments, as a step towards the achievement of a common immigration policy.

### **3.1. A critical overview of the EU legal framework for labour migration**

In December 2011, the European Commission issued a report assessing the impact of Directive 2005/71 on attracting third-country researchers to the EU<sup>29</sup>. Results were rather disappointing: in 2010, only 6,945 researchers were admitted under this scheme (most from India, China, the United States, Russia and Japan), while, in order to meet the Europe 2020 target of increasing R&D investment to 3% of GDP, one million additional researchers would be needed. According to the Commission, this failure might be explained, *inter alia*, by the ineffective promotion of the Directive and differentiation between permits for researchers and other types of permits for highly-skilled workers. Worldwide promotion for this ambitious scheme for migrant researchers is certainly needed.

The Blue Card Directive was the first legal instrument to be adopted among the key proposals of the 2005 Policy Plan on Legal Migration.<sup>30</sup> In the same vein as Directive 2005/71, the Blue Card was designed to attract highly-qualified third-country workers, foster economic competitiveness and achieve the Lisbon strategy objectives. The Blue Card Directive establishes a more or less fast-track admission procedure (90 days), but Member States remain free to limit access to their labour market (restrictions on some professions, sectors or regions). Moreover, during the first two years, Blue Card holders are restricted to the exercise of paid employment activities for which the permit has been granted; afterwards, Member States may grant them equal treatment to nationals as regards access to highly-qualified employment. According to the Commission's last report, the Blue Card Directive has made little impact on achieving its intended objectives. In 2012, only 3,664 Blue Cards were given out, which increased in 2013 to 15,261. Most have been issued by Germany (14,197), Luxembourg and France (respectively 306 and 304), and the main beneficiary countries were India, China, Russia, the United States and Ukraine. As regards implementation, the Commission expressed its concern "about flaws in transposition" and "the limited set of rights and barriers to intra-EU mobility"<sup>31</sup>, likely to dissuade highly-skilled migrants to come to the EU through the scheme. In this regard, the practice of dual schemes for attracting highly-skilled workers (a national scheme more favourable than the Blue Card being implemented) is quite problematic. This kind of a competing system might lead to the experience of the Netherlands. There a single Blue Card was issued whilst 6,000 to 7,000 Dutch "knowledge worker" residence permits were delivered on the basis of national law, from 2010 to 2012 (Groenendijk 2014, p. 94). That being said, the directive allows greater flexibility for legally resident third-country nationals wishing to shift from a national permit to the European one, by explicitly providing them with the possibility of applying for an EU Blue Card inside the territory of the Member State concerned.<sup>32</sup>

With the Seasonal Workers Directive, EU immigration labour legislation has been extended, for the first time, to medium and low-skilled TCNs workers<sup>33</sup>. There are not, as yet,

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<sup>29</sup> EC report on the application of Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research, 20 December 2011.

<sup>30</sup> Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.

<sup>31</sup> EC, Report on the implementation of Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment ("EU Blue Card"), Com(2014) 287 final.

<sup>32</sup> Article 10(2) of the Blue Card Directive.

<sup>33</sup> Council Directive 2014/36 on the conditions of the entry and stay of third-country nationals for the purpose of employment as seasonal workers.

comprehensive and comparable data available on TCNs seasonal workers in the EU. However, according to the Commission's estimates, more than 100,000 third-country seasonal workers arrive in the EU each year (including irregular migrants). Some Member States are particularly popular: Spain (24,838 non-EU seasonal workers in 2008 alone); Italy (over 11,000 applications received in mid-February 2008); Germany (4,248 admitted in 2009), France and Sweden<sup>34</sup>. According to the Directive, a seasonal work permit entitles its holder to stay and work in the territory of a Member State for a stay exceeding 90 days: EU visa legislation applies for shorter periods of stay. This Directive, providing for new rules on working conditions for potentially vulnerable workers, intends not only to prevent exploitation and abuse from employers but also to enhance the EU's economic competitiveness, especially in sectors characterised by the strong presence of seasonal workers: namely, agriculture, horticulture and tourism.

The deadline for transposition has been set for September 2016. It would, then, be obviously premature to assess the concrete impact of this Directive. However, Member States keep here again a wide margin of discretion, notably as regards: equal treatment with nationals; the right to change employer; and the level of right guaranteed compared to the framework directive (see below). In addition, some authors identified potential risks of "misuse" in case a more extensive interpretation would be given to "seasonal work". Indeed, due to the lack of binding rules on circular and temporary employment in the current EU legal framework and the Member States' discretion in providing seasonal workers with a more stable residence permit, Directive 2014/36 could have quite different outcomes. It might become an indirect channel for temporary employment (while providing a rather low level of rights) or allow the "eternal employment" of seasonal workers, excluded from the personal scope of the LTR Directive (Groenendijk 2014, p. 95). More fundamentally, one might wonder whether this Directive will offer a real breakthrough opening the way to more EU labour migration policy.

The third component of the package of measures presented in the 2005 Plan, the Intra-Corporate Transferees Directive was adopted on 15 May 2014<sup>35</sup>. Its objective is to facilitate the intra-corporate transfers of managers, specialists and trainees to the EU by setting up transparent and harmonised conditions for admission, residence, work and mobility. In several respects, the ICT directive is quite innovative: it covers a new category of TCN workers and it lays down a common set of rights for intra-corporate transferees in order to avoid their exploitation or the distortion of competition. Most importantly, it creates a new intra-EU mobility scheme, based on mutual recognition between Member States rather than harmonisation. The ICT permit is the first permit allowing its holders to work in several Member States for entities belonging to the same group of undertakings. However, the Directive distinguishes between short-term (fewer than 90 days in any 180 day period) and long-term (more than 90 days) intra-mobility: the conditions of the latter are stricter. Indubitably, Directive 2014/66 represents an interesting step towards further coordination between Member States. It remains to be seen, however, whether they can reach a sufficient level of mutual trust in order to ensure its effective implementation.

Finally, a last "remnant" of the transversal approach, Directive 2011/98 (Framework Directive) was adopted to provide a common set of rights for all TCNs. Besides a single procedure establishing a unique permit for work and residence, the Directive defines a

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<sup>34</sup> EC, Staff Working Document, Summary of the Impact Assessment accompanying the Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purpose of seasonal employment, ST 12208 2010 ADD 2.

<sup>35</sup> Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer.

common set of rights for all non-EU migrants at work. Note that these rights apply whether they have just arrived or whether they are already resident in a Member State. It, however, excludes from its scope several categories of migrants, either because they are already covered by EU legislation or due to the temporary nature of their status (e.g. seasonal workers). The establishment of a single application procedure marks an undeniable simplification. However, Member States are still given great leeway at different stages of the application procedure and there is little harmonisation regarding procedural guarantees. The same conclusions can be drawn as regards the areas in which equal rights are granted, subject to potential restrictions from Member States<sup>36</sup>.

Beyond the conditions of admission, intra-EU mobility of third-country nationals remains a key component of the EU labour migration policy and one of the biggest failures in European immigration policy to date. Mobility schemes still vary according to categories of migrants covered by EU directives and are largely left to Member States' discretion. While the EU *acquis* recognises economic and social benefits resulting from mobility for both Member States and individuals (reducing skills mismatches, addressing unemployment, supporting growth at the EU level etc.),<sup>37</sup> barriers continue to exist, both in the EU *acquis* and in measures applied by Member States. As pointed out in EMN 2013, Blue Card holders and their family members may move, for the purpose of highly-qualified employment, after eighteen months of legal residence in one MS. But they still need to apply for a second Blue Card. All the conditions set out in Article 5 of the Directive 2009/50 are reassessed by the second MS, allowing discretion and scope for variation, not least as regards labour market testing. While not necessarily falling within the scope of labour migration, the LTR Directive requires also a second application for a residence permit, when the recognised LTR decides to move to another MS. Here again, national authorities are allowed to apply additional measures, including the application of a labour market test or even compliance with integration measures. Additionally, national measures adopted at MS level are also likely to influence the intra-EU mobility of third-country nationals and sometimes dissuade them from moving for the purpose of employment. Such "negative" measures might include burdensome administrative requirements, lack of automatic recognition of degrees and diplomas, and rates of minimum wages required.

While there is no doubt that Europe would greatly benefit economically from greater intra-EU mobility in order to be more attractive and competitive, more legislative harmonisation appears unrealistic in the current situation characterised by the absence of a single European labour market and by the limitations of European employment policy, reduced to a kind of open method of coordination (see Section 3.2 below). In this regard, the 2014 Political Guidelines for the next European Commission continue to show little interaction between Employment and Legal migration policies; despite promoting labour mobility in fields with persistent vacancies and skills mismatches, the new policy for Jobs, Growth and Investment makes no reference to the need of a comprehensive economic migration strategy and its beneficial impact on EU competitiveness<sup>38</sup>.

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<sup>36</sup> See, in this regard, [http://www.epc.eu/documents/uploads/pub\\_1398\\_eu\\_single\\_permit\\_directive.pdf](http://www.epc.eu/documents/uploads/pub_1398_eu_single_permit_directive.pdf).

<sup>37</sup> EMN 2013, p. 6.

<sup>38</sup> Jean-Claude Juncker, Opening Statement, "A new Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic change", Political Guidelines, 2014. See also the Employment Package (2012).

### **3.2. The lack of coordination mechanisms between Member States for EU level policy implementation**

In 2001, the Commission launched an initiative inspired by the “open method of coordination” (OMC). This was presented as a key instrument of the Lisbon strategy to direct Member States’ actions towards certain common objectives in areas controlled by them such as employment, education or social security. This “soft” intergovernmental method (based on varying non-binding measures for Member States) has not been implemented in the field of labour migration. But it did show the need for Member States to coordinate their actions when implementing this policy.

In 2008, the Commission tried to reopen the debate by presenting a communication entitled “Common Immigration Policy for Europe”<sup>39</sup>. Ten common principles were proposed therein, together with a selection of concrete actions: notably promoting clear and transparent rules, a fair treatment of third-country nationals and better matching skills and needs of EU labour markets. The methodology consisted in an assessment of each Member States’ immigration profiles, as regards participation in the national labour market and the skills composition of immigration flows (both actual and potential). Member States were, therefore, expected to annually report to the Commission on the implementation of the common objectives and on their national immigration profiles, this serving as the basis for the Commission’s annual synthesis report to be sent to the European Council and the European Parliament. In its First Annual Report, the Commission indicated that most Member States reported on labour migration policies to address labour shortages at national level<sup>40</sup>. The Commission went on to emphasise the need for improvements when reporting on labour matching and skills recognition and on important national developments in future Annual Reports<sup>41</sup>.

When the European Pact on Immigration and Asylum was adopted at the initiative of the French presidency, it was decided to organise a yearly debate within the Council about the immigration and asylum policies. The major issues at stake included organising legal immigration, controlling irregular immigration, improving border controls, creating a Europe of asylum and finally better collaboration with countries of origin and transit. Unfortunately, after two previous editions following the order of commitments subscribed by the EU and its Member States, the Annual Report of 2011 changed form, on the basis of a new tracking method for monitoring the implementation of the Pact. It has never been the object of the strategic debate envisaged in the European Council (de Bruycker 2012).

As regards the second dimension of the Pact, Member States rapidly expressed concerns regarding operations of massive regularisation, mostly led by EU Southern countries in 2005, in order to tackle both irregular migration and irregular work. Several of them asked for a mechanism obliging Member States to mutually inform each other regarding the adoption of national measures likely to have a negative impact on all (or some) EU Member States<sup>42</sup>. While such complaints might be understandable, due to the risk of attraction generated by collective regularisations, it remains yet doubtful that a case-by-case or individual approach of regularisation will be better adapted to manage national labour markets and to regulate migratory flows on a larger scale.

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<sup>39</sup> EC, Communication on a Common Immigration Policy for Europe: Principles, Actions and Tools, COM(2008) 359 final.

<sup>40</sup> EC, Staff Working Paper, First Annual Report on Immigration and Asylum (2009), SEC(2010) 535 final, p. 3.

<sup>41</sup> EC, Report on First Annual Report on Immigration and Asylum (2009), COM(2010) 214 final.

<sup>42</sup> See Council Decision 2006/688/EC of 5 October 2006 on the establishment of a mutual information mechanism concerning Member States’ measures in the areas of asylum and immigration.



In 2009, another attempt was made to coordinate Member States' actions when imposing sanctions against employers of irregular third-country nationals. With the aim of ensuring effective, proportionate and dissuasive measures in all EU Member States, Directive 2009/52<sup>43</sup> obliges employers, before recruiting a third-country national, to check that they are authorised to stay, and if not, to notify the relevant national authority. Within this context, Member States are expected to carry out targeted inspections, based primarily on a risk assessment, and to communicate data to the Commission, both in absolute numbers and as a percentage of the employers for each sector. In 2014, when reporting on the Directive's implementation in 2014, the Commission however noted that "substantial efforts" remained to be made by Member States "to improve not only their reporting on inspections, but also inspections themselves and their prioritisation efforts through systematic identification of sectors at risk"<sup>44</sup>. Indeed, while the Commission's proposal wanted 10% of registered companies to be checked<sup>45</sup>, a table included at the end of its report showed that the number of inspections effectively conducted varied among Member States; from 79 in Estonia to 243,847 in Italy. For their part, Germany carried out 122,577 inspections, France 1,331, Spain 53,671 and Poland 2,776.

Finally, the creation of the European Migration Network (EMN) in 2008 is another example of a coordination mechanism envisaged by the EU to progress even modestly towards a common migration policy<sup>46</sup>. Its role is, however, limited to provide "up-to-date and comparable information on migration and asylum topics to policy makers and the general public". Consequently, it serves more as an information exchange platform than as a real coordination support office compared to FRONTEX or the EASO, playing a stronger role in the concrete development of the external borders policy or of the Common European Asylum System. Even if the EMN is aimed to support EU institutions in its decision-making process<sup>47</sup>, it stops short of establishing a migration policy review mechanism.

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<sup>43</sup> Council Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

<sup>44</sup> EC, Communication on the application of Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third country nationals, COM(2014) 286 final.

<sup>45</sup> Commission Staff Working Document, accompanying document to the proposal for a Directive of the European Parliament and of the Council providing for sanctions against employers of illegally staying third-country nationals - Impact assessment {COM(2007)249 final} {SEC(2007)596} {SEC(2007)604}.

<sup>46</sup> Council Decision 2008/381.

<sup>47</sup> Art. 1(2) of Council Decision 2008/381 specifies that the EMN's objective is to "meet the information needs of Community institutions and of MS' authorities and institutions on migration and asylum".

## **Box 2. The principle of EU preference**

The European Union preference (or priority) governing the access of migrants to the labour market is always presented as a key principle of the EU, but understanding precisely what it means and requires is difficult. It is fundamental to underline that the priority is not purely "European": the idea is not to privilege EU citizens over third-country nationals residing in the EU, but logically from an economic point of view, to prioritise the latter over third-country labour migrants coming from third countries. For the rest, literature on the issue is scarce and even the legal basis of the principle is difficult to identify:

- there are of course the last accession treaties following which Member States shall give priority to new EU citizens from the acceding States over third-country workers. But the validity of these provisions is limited to the transitional period (a maximum of seven years) generally applicable in case of enlargement before the full freedom of movement of workers becomes applicable;
- all the immigration directives contain a provision referring to the principle, but these are "may clauses" allowing and not obliging Member States to apply the priority. This raises a key question about the nature of the principle: it seems to be non-binding rather than a legal obligation;
- finally, there are some technical provisions in the Regulation 492/2011 on freedom of movement for workers about the exchange of information on vacancies and applications for work between the employment services of the Member States that are implemented through EURES (the network of the European Employment Services made of a mobility portal and 850 advisers located in the Member States managed by DG Employment of the Commission). But, once again, an analysis of these provisions leads to the conclusion that the principle is relative because Member States are only obliged to give to EU workers the same priority as to nationals, meaning that they can give no priority at all. Even if this is not the case in practice, the efficacy of the system is limited as it covers only the vacancies communicated to the employment services of Member States, which represent a limited number (around 30% to 40% at best) of the total vacancies in the absence of an obligation for employers to recruit through the public employment services.

A rather surprising conclusion of this brief analysis is that the principle of EU preference is ill-defined and seems largely left to the discretion of Member States. Actually, very little is known about the way it is implemented in practice at national level, for instance through labour market tests (LMTs) in individual cases or the listing of labour-short occupations (in this regard, see EMN 2015b). In this respect, there is a possibly useful parallel: the literature related to the Mode 4 of the General Agreement on Trade in Services (GATS) about the economic needs test (ENTs) applied before the admission of a physical person as a service provider on the territory of a State. However, those tests have mainly a national dimension (for instance through an obligation to advertise the vacancy in newspapers of the concerned country). This is not in line with the idea of EU preference. The implementation of the principle in practice and its articulation with the EURES system is, therefore, an issue for further studies that could lead to recommendations about how to improve the link to be made between European employment and immigration policies.

## 4. THE IMPACT OF EU LABOUR MIGRATION POLICIES AND LEGISLATION ON MIGRATORY MOVEMENTS AND THE LABOUR MARKET INTEGRATION OF IMMIGRANTS

### KEY FINDINGS

- Available data do not allow for a thorough assessment of the impact and effectiveness of immigration policies on migrant flows and – especially – on migrant composition in terms of their reasons for entrance: family reunification beneficiaries, refugees, workers and students. Only very limited quantitative studies have been conducted in a systematic and comparative way at an EU level. **This lack of data and research severely limits our ability to understand and design an evidence-based EU labour migration policy.**
- However, the low level use of EU labour migration policy tools, such as the Researchers or the Blue Card Directives, indicate that **the impact of EU labour migration policy on migratory movements is very limited.**
- **Empirical evidence reveals that migrants do not integrate into the labour market to the same extent as native workers.** They have lower wages and are more likely to be unemployed than native workers with the same characteristics.
- Many migrants will ultimately become EU citizens<sup>48</sup>. It is, therefore, **important that the policies and measures to improve their integration into the European labour markets start at an early stage.** If possible before departure from their countries of origin.

### 4.1. Capturing the impact of immigration policies on migration flows

Research on the link between migration policies and the quantity and profiles of immigrant inflows is quite recent. It is a key issue because in the past many analysts were convinced that the forces of market supply push factors and demand pull factors were so strong that migration policies were not effective.

In fact, the effectiveness of labour immigration policies depends mainly on:

- first, conditions in the labour market (excess demand);
- second, the institutional setting of the country, including the actual enforcement of the legislation, and
- third, the country's location (as much in geographical as in cultural and historical terms), which determines the intensity of migration pressures (close to sending countries or far from them).

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<sup>48</sup> According to Eurostat statistics extracted in May 2015, in 2013 871,300 TCNs residing in an EU Member State acquired EU citizenship, with an average naturalization rate of 2.9% in relation to the total number non-national citizens residing at the beginning of the year. This was the highest number of naturalization in any year since 2002. Half of those new EU citizens were 32 years old or less, i.e., with a long active life before them. See [http://ec.europa.eu/eurostat/statistics-explained/index.php/Acquisition\\_of\\_citizenship\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Acquisition_of_citizenship_statistics).

In relation to institutional issues, in southern European countries, for instance, the large underground economy acted as an important pull factor for irregular migrants. Irregular migrants, thus, came in the 1980s to 2000s, and the subsequent regularizations, implemented by the four southern destination countries, reinforced this channel.

Academic research has devoted a lot of attention to the impact of migration policies on the inflows of migrants. In this respect, we do not tackle here the gap existing between public discourse and migration legislation on paper, to use de Haas and Czaika's (2013) words. Rather we look at the capacity of legislation on paper and its implementation to affect the size and composition of migration inflows. In this regard:

1. more open or more restrictive immigration policies affect the inflows of migrants (number);
2. migration policy type also affects migrant inflows: point system vs. quota system; conditions for family reunification; admission of foreign students or highly-skilled migrants...

The bulk of existing research focuses on the effect of the policies on the quantity of inflows and much less on the composition of inflows. In the traditional model income differentials, employment differentials, physical distance, languages similarities and other additional variables are included in the equation as pull factors. The impact of change in legislation is captured through the introduction of a dummy variable.<sup>49</sup> In general, the change in migration legislation is captured by a binary variable, taking into account the implementation of more restrictive or more open policies or the introduction, for instance, of a family reunification program.

In general, the coefficients of such dummy variables, which quantify their impact on migration flows can be significant. However, they can also be irrelevant due to the time any legislation implemented takes to produce its effects: indeed, this often happens after economic conditions in the country have changed, so that in the empirical analyses the impact of migration policies is already captured by the economic variables. Let us recall, for example, the restrictive effect of North European migration policies in the early 1970s. In that case, the reduction of inflows was already captured by the reduced probability of finding a job and the coefficient for the dummy variable for the restrictive policy in Germany and in general in North Europe was not significant. In addition, the total stock of migrants did not decline, because family reunification increased and return incentives were not effective in encouraging migrants to go back home: migrants preferred to stay in destination countries (Venturini 2004; Hatton 2005).

However, the introduction of dummy variables is far from being satisfactory as a means to capture the impact of immigration policies. They are employed only to increase the controls within the regression analysis. They remain, though, approximate variables (proxies) and can only be used in time series analyses for individual countries. They also pose problems related to the time framework of policy adoption and implementation: change in policy can be adopted at the end of a year but implemented in the following one etc. For that reason, other authors, in particular Mayda and Patel (2004), tried to build a more sophisticated measure, a kind of index designed to compare policy changes of different intensities: very restrictive, rather restrictive, neutral, very open etc. This represented a step forward in

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<sup>49</sup> A dummy variable is an artificial variable designed introduced in a regression equation to capture the significance of a certain factor which usually takes the values 0 or 1 depending on the presence or the absence of a contextual effect, for instance the implementation or not of a policy or the belonging or not to a certain group of countries...

research terms: the index used in the time series analyses of international flows by Mayda (2007) was significant and interacted with the push and pull variables, confirming the prevalence of pull factors.

Unfortunately, all the commendable efforts of economists were constrained by the lack of information on the implementation of different policies. In Europe, in particular, there is hardly any data on the financial resources invested in the implementation of migration policies<sup>50</sup>; while, for instance, in the USA there are public data on the financial and human resources investment in the control of the Mexican frontier.

This difficulty has pushed economists onto another type of exercise. The IMPALA project (Beine *et al.* 2014) aims to create and update an inventory of all the migration policy interventions looking at many dimensions. A large group of economists employed a list of questions with different dimensions in such a way as to have comparative and time series measures for policy evolution through time. The interest of this approach lies in the fact that this policy evaluation and the set of background questions used to develop the dataset cover specific channels of entrance as refugees, family reunified members and labour migrants. In this way, it allows for an analysis of changes in legislation. This can, in turn, be used to understand the variations in national migration legislation across countries and to understand the possibility of coordination, as well as their effects in pursuing different policy objectives.

On the composition of migration flows and the effectiveness of migration policies there is much less research: in particular, there is very little comparative research. First, few and scarcely comparable data are available on specific migrant categories. Second, many policies targeting specific migrant categories are relatively recent (see e.g. highly-skilled migration schemes), meaning that we hardly have long time-series. The latter are, instead, fundamental in policy analysis: i.e. in determining the effect of a new policy or changes in policy on outcomes of interest (Pickup, 2015). Finally, the existence of several policy levels (EU, national and sometimes regional or local) may create difficulties in capturing interaction effects at different levels<sup>51</sup>. An interesting attempt has been carried out by Czaika and Parson (2015), who defined, with a survey, different categories of selective migration policies for highly-skilled workers (point system, demand driven, etc.) in ten destination countries. They then used these migration policies categories in analyzing the migration flows of highly-skilled workers in ten destination countries from 153 countries of origin for twelve years. Unfortunately, among the EU Member States only Sweden and the United Kingdom are included. Thus, the small number of EU countries and the use of a very rough proxy of employment in highly-skilled occupations (ISCO codes 1-2-3) reduce its relevance for present purposes.

In terms of EU labour migration policy tools (such as the Researchers Directive or the Blue Card Directive described in Section 3.1 above), the actual impact of migratory movements has been very limited so far. This is due to the low level of use evidenced by all official evaluations summarized in Section 3.1, with very low numbers of work permits granted on the basis of such instruments. It is also a question of the recent adoption of many of them, which are not yet fully implemented: this is the case with the Seasonal Workers Directive and the ICT Directive.

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<sup>50</sup> One can refer to <http://www.themigrantsfiles.com/>, but it is a journalistic rather than an scientific or policy-making exercise.

<sup>51</sup> Research is much more developed, instead, in non EU Member States (e.g. Australia, Canada, and the United States), both because their highly-skilled migration schemes are well rooted and long-standing and because annual data are much more detailed and widely available.

Across EU Member States, labour migration policies often focus on the following categories of migrant workers: highly-skilled migrants in general; entrepreneurs; self-employed; seasonal workers; investors; and researchers. It is not uncommon that migrants working in specific occupations, such as IT, healthcare, academia, sport, or others are targeted by migration policies. Here, we will focus specifically on highly-skilled migration policies and their implementation because of their relevance in the current migration policy debate and also because, no systematic and comparative study has been conducted on other migrant categories: to be fair, data issues there are more problematic. The role of highly-skilled migrants has been emphasized by recent empirical findings. According to these findings highly-skilled migrants generate a more positive net fiscal contribution (given their higher earnings and employment opportunities) (Boeri, 2010). But they also tend to favour labour market innovation (Venturini, 2013). Accordingly, public opinion and attitudes towards migrants are generally more positive (see Box 3 in Section 5). Not surprisingly, a number of countries that have high levels of immigration have moved towards greater skill selection in their immigration policies (Belot and Hatton, 2012), even if the relevance of such skills selection in filling actual labour market shortages across EU Member States is debatable (see Section 2 above).

In addition to the EU *acquis* analysed in Section 3, EU Member States have thus adopted different national policies and strategies to attract highly-skilled workers. Overall, the situation can be summarized as follows. Five EU Member States have point-based systems in place: Austria, Netherlands, Slovenia, the UK and the Czech Republic. There are important differences but all can be considered both “supply and demand driven”: i.e. they focus on both addressing labour shortages and on identifying third-country nationals which can add a high value to the national labour market. An employer-led approach – i.e. subject to EU preferences – has been adopted in sixteen Member States: Belgium, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, the Slovak Republic, Spain, Sweden and the UK. In addition, Member States have adopted specific strategies including fast-tracking procedures, unrestricted access to the labour market, awareness and information provision, employer sponsorship, favourable conditions for family reunification, taxation and access to social security benefits, etc. (EMN, 2013).

As already noted, assessing their *implementation gap*<sup>52</sup> is not a straightforward task. Despite important limitations<sup>53</sup>, some qualitative evidence is provided by national evaluation schemes. A recent study conducted by EMN (2013) employed such schemes and identified the following good practices in the areas of:

- information provision (provision of relevant up to-date information and guidance to migrants and employers from third countries and the establishment of focal points): Austria, Germany, the Netherlands and Slovenia;
- adaptation of migration procedures (replacing generic highly-skilled routes by more specialised routes, maintaining an open, employer-driven system): The Czech Republic, Estonia, Ireland, Luxembourg, Spain, and the United Kingdom;

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<sup>52</sup> According to Czaika and de Haas (2015), the *implementation gap* identifies the discrepancy between policies on paper and their actual implementation, first source of a possible real “policy failure”.

<sup>53</sup> They are constrained by two main issues. First, only a few Member States have adopted specific evaluation systems to assess the impact of policies aimed at attracting highly-qualified migrants. Second, they employ a qualitative approach, relying on subjective evaluations, reports and expert interviews leading to a high degree of subjectivity in the assessment.

- the introduction of incentives to attract (highly) qualified migrants (tax advantages, improved family reunification rights): Austria, Belgium, the Czech Republic, Germany, Estonia, France, Greece, Italy, Lithuania, Luxemburg, Netherlands, the Slovak Republic, Spain and Sweden;
- the customisation of labour market practices (ensuring that highly-qualified third-country nationals are employed in sectors with a shortage of domestic supply, involvement of national institutions in scrutinising the suitability of applicants: Luxemburg, Slovenia and the UK.

This study also reports a series of statistics on immigration flows by level of education and by EU Member States concluding: "over the period 2008-2012, a number of Member States which had specific policies and measures in place to attract (highly) qualified immigrants saw an increase in their proportion on the total number of employees in these occupational levels". This was the case for Luxemburg, Germany and the UK (EMN, 2013). Though of interest, it is worth mentioning that descriptive findings do not contribute to a better understanding of the link between highly-skilled migration trends and related policies. They help neither in terms of correlation or a causal perspective.

On the other hand, quantitative empirical findings are found in another – though limited – set of studies. By using a dummy approach like the one described above, the effect of the Schengen Agreement has been widely investigated. Beine *et al.* (2011) found that a "Schengen dummy" – indicating whether pairs of countries are subject to the Schengen agreement within the European Union – significantly raised the share of highly-skilled migrants. A similar effect was found by Ortega and Peri (2009). Interestingly enough, Beine *et al.* (2011) concluded that the effectiveness of policies aiming at increasing the educational level of immigrants may be constrained by the presence of a large diaspora, enabling an influx of lower-educated migrants. Thus, as noted by Czaika and de Haas (2015), "in the presence of large immigrant populations, skill-selective migration policies might fail unless family reunification programs are deeply reformed and limited, which is generally not possible because of constitutional and human rights constraints".

The effect of selective immigration policies was also the focus of a study from Belot and Hatton (2012). These policies are here viewed as screening mechanisms, which imposed differential costs on potential immigrants by skill and education. Due to the lack of comprehensive indicators, they rely on a set of proxies: a) the responses of business executives on the question on how far immigration policies permit the hiring of foreign employees (greater flexibility is interpreted as representing more employment-friendly policy); b) the restrictiveness of the country's policy towards professional workers (Nguyen Hong, 2000); and c) a dummy variable for countries selecting skills through a points system. Interestingly enough, they also considered the generosity of the welfare state (proxied by the share of social spending in GDP), often seen as attracting less-skilled migrants (Boeri *et al.*, 2002; Di Giorgi and Pellizzari, 2009; Boeri, 2010). As for their main results, they found evidence that points systems and policies that encourage the transfer of professional skills are positively and significantly associated with increasing levels of highly-skilled migrants' share. On the contrary, as expected, negative welfare magnet selection effects are found.

As recognized by the authors, a main limitation in this analysis is that "these measures are only partial and they do not capture the potentially large effects of policies towards family reunification and refugees" (Belot and Hatton, 2012). It is widely believed that immigration policies that place greater weight on family reunification and refugees are likely to select lower-skilled immigrants. Accordingly, Grogger and Hanson (2010) found that the share of

asylum seekers – used to proxy immigration policy – has a negative effect on both the educational selection of migrants and sorting across destinations.

We can conclude that much needs to be done on assessing the effect of immigration policies on migrant flows and – especially – on migrant composition. The main challenges are related to the lack of time-series and the relatively recent implementation of national and EU schemes for highly-skilled migrants. A more severe situation in terms of policy evaluation concerns other migrant categories for which data issues are still more pronounced. No quantitative study has yet been conducted in a systematic and comparative way at the EU level. Any kind of evaluation system is also challenged by the lack of information on the resource level invested in implementing these policies. Clearly enough, this limits, too, the work of EU national evaluation points, which can evaluate policies effects only from a *qualitative* viewpoint, an important but not an adequately rigorous approach.

## **4.2. The labour market integration of economic and non-economic migrants in the EU**

In this Section, we will concentrate on the integration of migrants in the labour market by reporting information on the three main measures of integration: employment; mismatch between occupation and education; and remuneration, which is a synthetic index of worker integration.

*Definition:* A foreign worker is considered integrated in the labour market if, for instance, his or her wage is equal to the remuneration of a native workers with the same characteristics: age, sex, education, seniority in the labour market, sector and region of employment and other control variables.<sup>54</sup>

The empirical research in this field is well developed. There are analyses on the integration of foreign workers in the labour market for all countries and a few comparative studies which are necessarily less sophisticated because they are constrained by comparable data availability.

### **Traditional research on labour market integration**

In the following, we briefly present the results and we explain how they should be interpreted. Interestingly, the results of most national or comparative studies are similar. Migrants do not integrate easily, they have lower wages and they are more likely to be unemployed than native workers with the same characteristics. Tables 2 and 3 and Figure 8 summarize the labour market integration gap of migrants in relation to natives.

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<sup>54</sup> See Venturini (2014), Keynote speech at the annual IMISCOE Conference, Madrid.



**Table 2. EU and non-EU immigrant-native employment rate differentials**

	<b>EU (1)</b>	<b>Non-EU (2)</b>	<b>EU (3)</b>	<b>Non EU (4)</b>	<b>EU (5)</b>	<b>Non-Eu (6)</b>
Austria	-0.058**	-0.128**	-0.048**	-0.129**	-0.059**	-0.118**
Belgium	-0.088**	-0.207**	-0.062**	-0.195**	-0.029**	-0.197**
Germany	-0.053**	-0.219**	-0.067**	-0.227**	-0.032**	-0.162**
Denmark	-0.028**	-0.118**	-0.029**	-0.121**	-0.034**	-0.146**
Spain	-0.006	-0.003	-0.008	-0.011*	-0.059**	-0.044**
Finland	0.032*	-0.122**	0.030*	-0.119**	-0.013	-0.150**
France	-0.065**	-0.135**	-0.074**	-0.151**	-0.010	-0.129**
Greece	0.012*	0.040**	0.045**	0.026**	0.003	0.003
Ireland	0.015**	-0.028**	0.013**	-0.027**	-0.035**	-0.130**
Italy	0.042**	0.048**	0.044**	0.010**	-0.027**	-0.032**
Netherlands	-0.053**	-0.149**	-0.043**	-0.147**	-0.061**	-0.156**
Norway	0.019*	-0.100**	0.014	-0.105**	-0.009	-0.108**
Portugal	0.069**	0.041**	0.069**	0.042**	-0.029**	-0.022**
Sweden	-0.090**	-0.158**	-0.094**	-0.167**	-0.079**	-0.174**
UK	0.037**	-0.073**	0.033**	-0.076**	0.013*	-0.101**
Year & quarter effects	Yes	Yes	Yes	Yes	Yes	Yes
Gender	No	No	Yes	Yes	Yes	Yes
Region effects	No	No	Yes	Yes	Yes	Yes
Age	No	No	No	No	Yes	Yes
Education	No	No	No	No	Yes	Yes

*The table reports differences in employment probability between EU (columns 1-3-5) or non-EU (columns 2-4-6) immigrants and natives. The values are the estimated coefficients of separate regressions by country of a dummy for having a job on dummies for EU and non-EU immigrants. Separate regressions are run for each country. The sample are individuals in working-age population not in military service and not in education or training. We define an individual as in employment if she is employed or self-employed.*

*Year and quarter effects: year-quarter interaction dummies. Gender: dummy for female. Age: dummies for five-year age groups. Education: dummies for lower secondary, secondary and tertiary education.*

*\* difference significant at 10%, \*\* difference significant at 1%*

**Source:** Dustmann and Frattini, 2012. Data from EULFS, years 2007-2009.

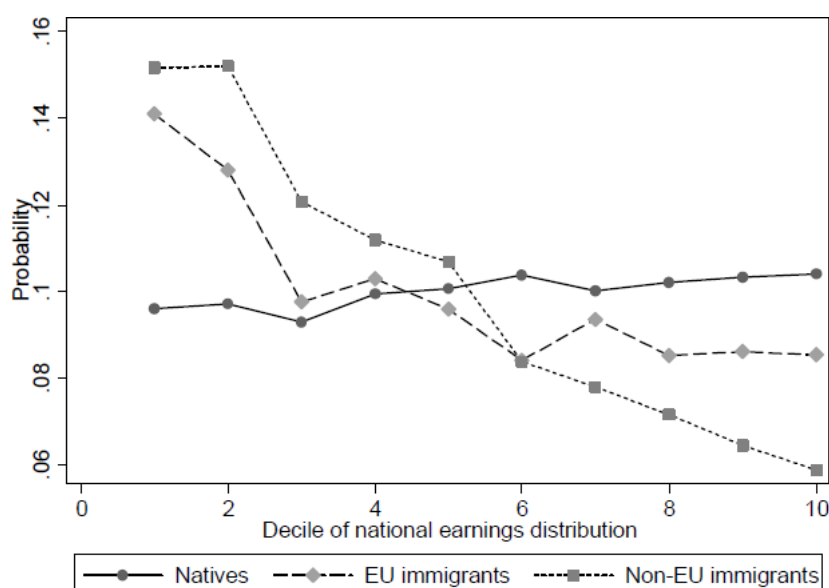
**Table 3. EU and non-EU immigrant-native occupation differentials**

	EU (1)	Non-EU (2)	EU (3)	Non EU (4)	EU (5)	Non-Eu (6)
Austria	0.075**	-0.584**	-0.103**	-0.429**	-0.053**	-0.047**
Belgium	0.039**	-0.350**	-0.010	-0.294**	-0.006	-0.082**
Germany	-0.181**	-0.509**	-0.103**	-0.295**	-0.049**	-0.066**
Denmark	0.064*	-0.310**	-0.076**	-0.248**	-0.026**	-0.044**
Spain	-0.405**	-0.620**	-0.445**	-0.492**	-0.082**	-0.081**
Finland	0.073*	-0.199**	0.113**	0.141**	0.008	-0.038**
France	-0.232**	-0.173**	-0.182**	-0.232**	-0.029**	-0.036**
Greece	-0.525**	-0.845**	-0.477**	-0.591**	-0.112**	-0.121**
Ireland	-0.263**	-0.008	-0.249**	-0.221**	0.001	-0.108**
Italy	-0.603**	-0.779**	-0.595**	-0.634**	-0.114**	-0.125**
Netherlands	0.028	-0.344**	-0.100**	-0.252**	0.007	-0.026**
Norway	0.158**	-0.317**	-0.049*	-0.336**	-0.015	-0.056**
Portugal	0.295**	-0.006	-0.111**	-0.317**	-0.024*	-0.071**
Sweden	0.006	-0.333**	-0.118**	-0.381**	0.010**	-0.036**
UK	-0.208**	0.069**	-0.237**	-0.115**	-0.039**	-0.030**
Year & quarter effects	Yes	Yes	Yes	Yes	Yes	Yes
Gender	No	No	Yes	Yes	Yes	Yes
Region effects	No	No	Yes	Yes	Yes	Yes
Age	No	No	Yes	Yes	Yes	Yes
Education	No	No	Yes	Yes	Yes	Yes
1-digit Occupation	No	No	No	No	Yes	Yes

This table reports the differences (as fractions of a country-specific standard deviation) in Socio-Economic Index (SEI) of EU (columns 1-3-5) and non-EU (columns 2-4-6) immigrant workers relative to native workers. The values are the estimated coefficients of separate regressions by country of the ISEI index (normalized by its standard deviation) on dummies for EU and non-EU immigrants and year-quarter interaction dummies (columns 1-2), and other control variable (columns 3-6). Year and quarter effects: same as in Table 2. \* difference significant at 10%, \*\* difference significant at 1%

**Source:** Dustmann and Frattini, 2012. Data from EULFS, years 2007-2009.

**Figure 8. Earning distribution**



The figure reports the share of natives (circles), EU immigrants (rhomb) and non-EU immigrants (squares) in each decile of the national earning distribution in Belgium, Germany, Finland, France and Italy pooled.

**Source:** Dustmann and Frattini, 2012. Data from EULFS 2009.

These differentials decline with the number of years of stay in the country of destination; highly-skilled migrants have a higher probability of employment than low skilled migrants. They are, though, on average more educated than a comparable native with the same position. Some national groups present a lower assimilation rate with respect to other national groups. Knowledge of the language spoken in the destination country plays a very important role in this respect. The education in the country of destination presents higher returns in the labour market than education in the origin country. If the differential remains after controlling for all the variables mentioned, frequently the hypothesis of discrimination comes up. It is, however, very difficult to argue in this direction because the empirical exercises compare: the performances of different school systems; different levels of knowledge of the language of the country of destination etc. It is more correct to argue that the differential is not explained by the different measured characteristics of the labour force. If the differential, after all the controls, is higher than 30% the hypothesis of discrimination can be taken more seriously. But other methodologies of analyses are more appropriate for understanding this field. For instance, Carlsson and Rooth (2007) in Sweden inquire into the probability of upgrades by changing names of origin into others which are more similar to the destination country's names. Duguet *et al.* (2010) analyzed the probability of getting a job for a migrant with a changed name in Paris and found similar results.

To cope with the underassimilation of migrants in the labour market, a series of integration policies focused on economic integration are implemented, in general at local level but also at national level. Integration policies try to cope with the disadvantages of migrants by increasing their chances of finding a job through language courses, specific training course, job placing support, etc. They are managed mainly at local level by local authorities. The European Fund for the Integration of Third-Country Nationals (now transformed into the Asylum, Migration and Integration Fund, AMIF) provides financial support to Member States to organize integration interventions for third national countries and Member States fund additional interventions with their own budgets.

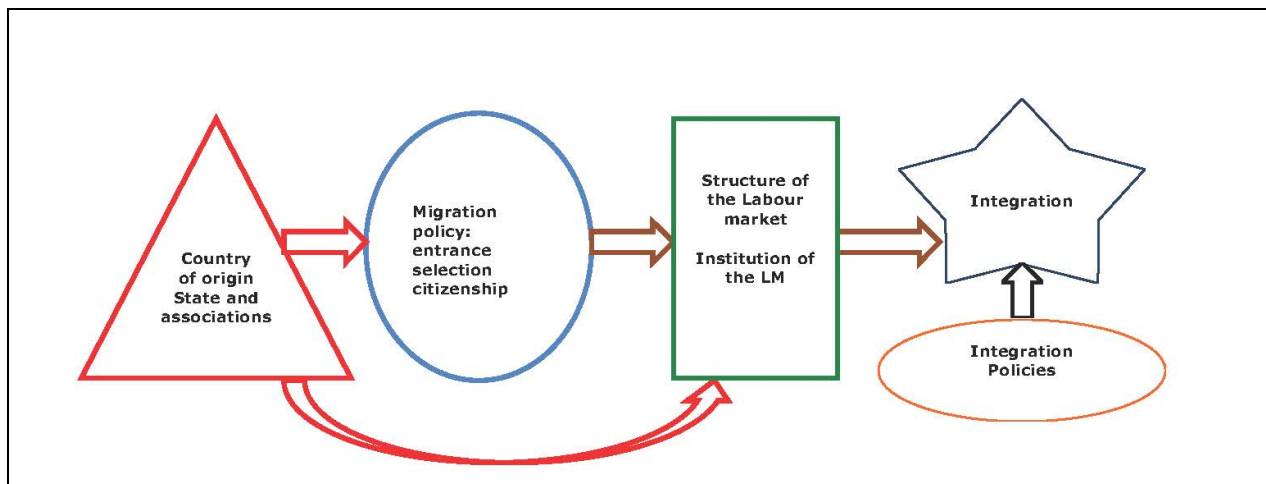
### **What else affects migrant integration?**

The integration of migrants into the destination labour market is, however, affected by three other set of actions intervening upstream:

- a)** the migration policy *strictu sensu*, namely the legislation which specifies the rules for the admission of migrants (types of permits, duration, selection criteria etc.) and its actual implementation, but also integration policies as described above;
- b)** the characteristics of the labour market and its functioning, and
- c)** the interventions of the country of origin.

These factors are represented in Figure 9.

**Figure 9. Determinants of migrant labour market integration**



**Source:** Venturini 2014, Keynote speech at the Annual IMISCOE conference in Madrid.

In this way, the same legislation, for example a point system which gives a premium for tertiary education in mathematics and engineering, will likely produce high integration in Germany: in Germany there is a high demand for these skills, with very limited over-education. In the Southern European countries, meanwhile, where the outflows of tertiary educated natives with degrees in mathematics and engineering is sizable, it will result in increased unemployment or over-education. The demand side is relevant, then, but also all the institutions affecting the functioning of the labour market, such as trade unions, social security systems, job intermediation institutions, training provided etc. Even in those countries with the highest numbers of migrant workers, their share in the labour market remains relatively low: under 11% of the total labour force, with the exception of Luxembourg. In this respect they are not important enough to affect the structure of the labour market as such, and national specificities dominate its functioning.

The recent research by Guzi, Kahaneck, Mýtna Kureková (2015) measures the native-migrant wage differentials of different institutions including the type of economic system (coordinated, liberal, mixed and emerging market economy); and the dominance of trade unions. The results show that different economic systems and different trade union intensities matter. Migrants are better off in liberal market economies (e.g. the UK and Ireland) and in emerging economies (new accession countries), and trade union intensity favours their integration.

A very important role in favouring the integration of migrants in the labour market falls, however, to the immigration policy. As is well known, national legislation and the transposition of EU legislation differ across countries (the UK, for instance, is not part of the Schengen Agreement). But just as important, if not more so, is the implementation of legislation, which is embodied in the institutional structure of the destination country. So to use Hein De Haas and Mathias Czaika (2013) terms, it is not only that legislation on paper differs from place to place, but their varied implementation increases the differences.

In addition, in one single country different communities with the same human capital can perform in very different ways, because some are guided and supported by policies and actions of the country of origin before departure and after arrival (see INTERACT research project, MPC, 2014-2015)<sup>55</sup>. The country of origin, through its public employment services,

<sup>55</sup> <http://interact-project.eu/>.

can help migrants in finding a job abroad, it can provide pre-departure training to help matching in the destination country (see the case of the Philippines) or provide support at arrival (through services by labour attachés at embassies for instance). Thus given the same migration policy and labour market at destination, the country of origin can help its citizens in reducing employment under-assimilation and brain waste. The country of origin also has a broader role in the construction of the human capital of migrants. It can build up the fields of education in demand and can control the quality of the education and by these policies increase future remuneration in the destination country.

Thus to understand the dynamic of the integration of migrants in the destination labour market and to improve the functioning of the process by changing the legislation on paper or its implementation we should consider three main actors:

- the country of origin and the possibility of shaping the implementation of any migration policy decided and adopted by the destination country. This might be, for instance, through bilateral agreements (i.e. accepting double citizenship which allows a more flexible migration path, incentives to return policies...) or with specific interventions to improve the human capital and favor the integration of potential and future migrants;
- the country of destination with its many instruments: the migration policy *strictu sensu*, the legislation of the labour market and, last but not least, integration policies; this, also, include other institutional actors as mentioned above: trade unions, employers, etc.; and
- the migrants themselves, who work their way towards permanent or temporary integration according to their individual migration project and the opportunities they have to implement it.

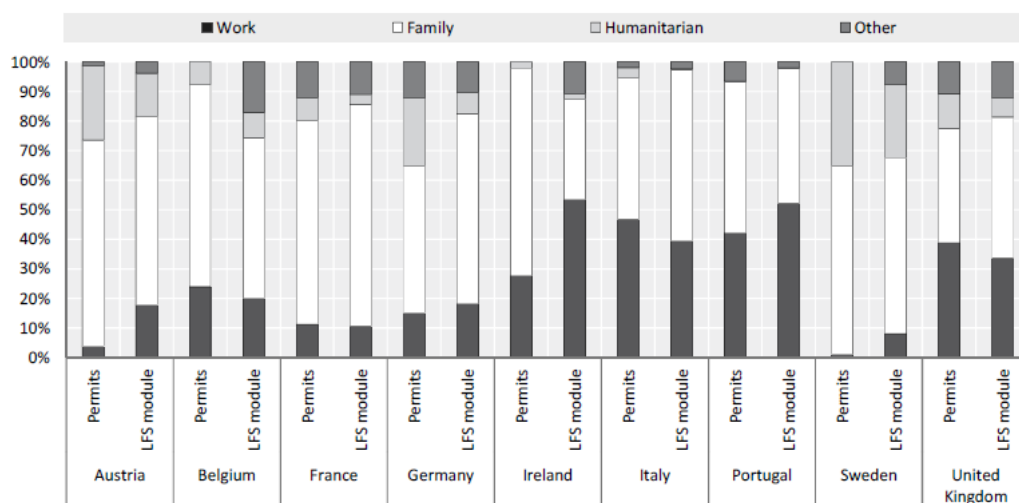
### **Main limitations of the traditional approach on labour market integration**

We have already stressed that there are some important limitations in the traditional approach to the analyses of the performance of migrants in the destination countries. We have noted, too, that integration policies frequently address problems that could be avoided by the fine-tuning of previous "migratory interventions" put in place by the country of origin and destination.

However, the most important limitation is that very few studies (for instance Lemaitre 2014 and Damas de Matos and Liebig 2014) are able to distinguish the labour market performance of migrants according to the reason of entrance. This is mainly imputable to limitations on the data: only in 2008 did the European Union Labour Force Survey (EULFS) present this distinction, then it failed to include it again. Thus the (limited) existing comparative analyses are based mainly on that source.

The composition of the migrant population and the composition of the migrant labour forces are very similar by reason of entrance (see Table 3 Lemaître 2014, p. 351): 50% of the foreign population entered through the family reunification "door" (Borjas 1999), while only 30% enter through the labour "door" and the remainder are "refugees". In Figure 10 the two columns for each country show first the stock of foreign residents by type of permit, and second the foreign labour force by reason of entrance, and it is clear that in both the share of family members is larger than the others.

**Figure 10. A comparison of labour force survey (LFS) and of OECD standardized permit data (non-EU migrants), 2005-08 cumulative**

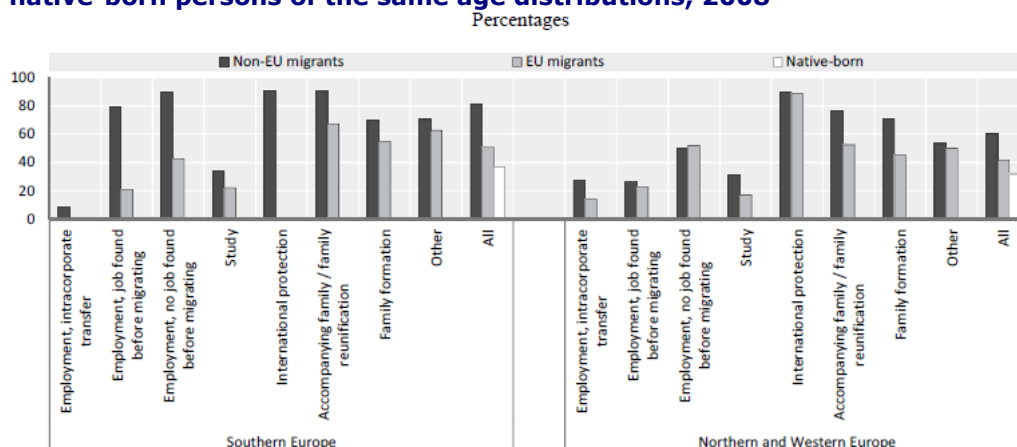


**Source:** Lemaître, 2014, p. 351. Data from EULFS ad-hoc immigrant module and OECD standardised immigration.

This has very important implications, because it shows that all the entrants end up in the labour market, but not all of them enjoy the same labour market integration performance. Labour migrant workers perform better than reunified family members and refugees.

Damas de Matos and Liebig (2014) using the 2008 EU Labour Force Survey show that the workers who entered as family members or refugees have lower levels of education (fewer years), but that the incidence of overeducation is much higher among family members (23.2% more than natives) and refugees (34.2%) than among labour migrants (18%). It is, also, stronger among the migrants educated outside the EU27 countries. In Figure 11 there is a graphic representation of overeducation by reason of entrance and the spike in family members provide a clear picture of the results. A work of comparative research by George Borjas (1988) between Australia, Canada and the USA demonstrates that the lower economic performance of the immigrants in the USA(-5%) has to be imputed to the earlier introduction of the family reunification: this allowed the entrance of family members who were not in demand in the labour market.

**Figure 11. Overqualification rates of recent immigrants by reason for migrating and of native-born persons of the same age distributions, 2008**



*Note:* A worker is deemed to be overqualified if holding a tertiary degree and working in a job classified as medium or low-skilled (ISCO 4-9).

**Source:** Lemaître, 2014, p. 360. Data from Eurostat Labour Force Survey ad-hoc immigrant module.

The differential performance of the reunified family members is expected because family members in general are not selected for their relevance for the destination labour market. They do not receive any pre-departure training and once arrived in the destination country there is a heavy focus on integration, mainly based on the idea that they should become future citizens. Thus they are provided with language and cultural courses, while training courses and labour matching opportunities are far less frequent. Occasionally, sociological studies discuss how family members find a job, and in general it happens through family and friends networks (Andall 2012).

Refugees also receive different treatment in each destination country. However, in the countries where they are most numerous in relation to population, Sweden, they show comparatively higher participation rates in the welfare state and very limited integration in the labour market. Different strategies have been implemented to increase their participation by avoiding the creation of ethnic enclaves. They were redistributed in different areas, but this policy was not successful; they receive psychological, cultural and linguistic support, but they still seem unable to integrate. The new strategy implemented by the government aims to shorten the transition to employment considering employment the best integration solution.

The new PIAAC dataset, an OECD Programme for the International Assessment of Adult Competencies which measures the ability of native and foreign workers in literacy, numeracy and additional tests, is also very helpful in explaining some of the differences. In all the tests, the average for foreign born workers is negative, with different value according to the country of destination (see Pasimeni *et al.* 2014, p. 121-122). It can be very helpful in understanding the needs of the foreign labour force and the appropriate instruments to reduce their low labour market performance. It does not, however, distinguish the results by reason of entrance and thus it does not clarify what can be done before arrival.

The limited data available and the limited research focus on this subject has created a paradox. When looking at the forecast of future labour market needs in destination countries to define the characteristics of labour migration policy (number of visas, profile of migrants etc.), the migrants entering through non-economic migration channels are not taken into account. There is then the risk of letting workers in through the "labour door" and creating competition for migrants entering through the "family door" with similar profiles.

The EU and the Member States should better recognize the importance of family migrants as (potential) economic actors in the labour market. Knowing the skills and qualifications of family members that are coming to the EU in an early stage could help to better connect these migrants to schooling and/or education opportunities or assist an early connection to the labour market. Pre- and post-departure training could be envisaged and a better transition to work might be promoted.

## 5. DOES THE EUROPEAN AGENDA ON MIGRATION RESPOND TO EU NEEDS FOR LABOUR MIGRATION?

### KEY FINDINGS

- The pillar on “A new policy on legal migration” of the European Agenda on Migration **does not contain major novelties** in relation to the current EU labour immigration regime.
- **The proposals lack a clear vision of future EU labour migration policy** and its integration with labour market and employment policy. They are not really new. They do not build a comprehensive and coherent policy and they do not make up for the shortcomings of the current EU labour migration policy. Overall, they are not apt to respond to the identified and projected labour needs of the European Union over the medium- to long-term.
- However, they open **a unique opportunity to bring EU labour migration policy higher up in the EU political debate** that should not be wasted.
- **The political sensitiveness of immigration policy and the exclusive competence of Member States** to decide the volume of admissions of third-country nationals to seek work are two major constraints for any policy initiative in this field.

The section dedicated to “A new policy on legal migration” in the European Agenda on Migration<sup>56</sup> does not contain any major novelty in relation to what had been already announced in the Political Guidelines drawn up by President Jean-Claude Juncker<sup>57</sup>. Nor does it offer anything alien to the overall EU policy approach in this field described in Section 3. The starting point of its approach is the evidence of the need for labour migration to the EU in the near future (see Section 2 for a thorough analysis of this issue). It acknowledges that, even with a determined effort over the medium and long term, including the launch of a “Labour Mobility Package” and a new Initiative on Skills policy initiatives announced for 2015, Europe is unlikely to be able to fully match its labour needs.

In this context, it sets as an important objective “to have in place a clear and rigorous common system, which reflects the EU interest, including by maintaining Europe as an attractive destination for migrants”. However, the political sensitiveness and the legal constraints to immigration policy are put forward, as the Commission acknowledges that “the case for legal migration will always be difficult at a time of high unemployment and social change” (see a factsheet on this issue in Box 3 below). It adds that “decisions on the volume of admissions of third country nationals coming to seek work will remain the exclusive competence of Member States”. Actually, these factors may jointly explain the limitations of the Commission’s proposals in this field, and they set out the perimeter of feasible policy initiatives at the EU level.

In terms of concrete actions, the European Agenda on migration contains the following points:

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<sup>56</sup> EC, Communication on a European Agenda on Migration, 2015, COM(2015) 240 final.

<sup>57</sup> Jean-Claude Juncker, Opening Statement, “A new Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic change”, Political Guidelines, 2014.



**Students and Researchers Recast Directive.** It urges legislators to adopt the proposal already submitted by the European Commission in 2013 (COM/2013/0151). In its 2013 proposal for the reform of existing directives applying to migrants' researchers and students<sup>58</sup>, the Commission suggested granting these categories additional rights on intra-EU mobility and access to job-seeking after the completion of their studies or their research project. In order to retain highly-qualified third-country nationals who have the potential to contribute to the national (and European) economy, Member States would, indeed, allow them to stay on their territory for an extra twelve months, in order to identify work opportunities or to set up their own businesses. After the first three months, Member States are entitled to check on the genuineness of this search, and after six months they would be able to ask migrants to prove that they have real prospects of being engaged or of launching a business. Students and researchers must be able to prove that they have sufficient resources to subsist during this extended period, which may seem paradoxical as the very purpose of their stay is to find a job.

**Review of EU Blue Card Directive.** This reiterates the Commission's intention, already expressed in the hearings of the Juncker Commission, to review the EU scheme for highly-qualified third-country nationals (see discussion below in Section 6.3.1). This review should include issues of scope such as covering entrepreneurs who are willing to invest in Europe or improving the intra-EU mobility of Blue Card holders. After the adoption of the Agenda, a public consultation on this issue has been launched by the European Commission<sup>59</sup>, as well as an impact assessment study.

**Services-related migration.** The Commission stresses the importance of this modality of generally short-term migration. It does so though without advancing any concrete strategy. In particular, it remains silent on the temporary entry of workers from third countries for the purposes of service provision: the equivalent of Mode 4 of the General Agreement on Trade in Services (GATS). Conceptually, such service provision-related temporary labour migration should be at least part of the EU negotiations of Deep and Comprehensive Free Trade Areas (DCFTA) with third countries. Currently, negotiations are under way with Morocco, after the signature of the DCFTA with Ukraine, but the EU has refused to include any discussion on this issue in the negotiation agenda so far.

**Member States and stakeholders' dialogue on labour migration policies.** Then, similarly to previous coordination initiatives, the Commission reiterates its support to Member States "in promoting a permanent dialogue and peer evaluation at [the] European level regarding labour market gaps, regularisation and integration". It does so as decisions by one member State have an impact on others. The objective is to "build common thinking and policy approaches and exchange good practices at [the] European level". The Commission will also seek to establish a platform of dialogue to include input from businesses, the trade unions, and other social partners to maximize the benefits of migration for the European economy.

**Information tools to identify skills gaps and recruitment difficulties.** The Commission refers to existing instruments, such as the Skills Panorama, the EU Immigration Portal and EURES, and advocates developing them. It does so, though, without pleading for a fully-fledged EU-wide labour market information system or its use for

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<sup>58</sup> Proposal for a directive on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing (recast), COM(2013) 151 final.

<sup>59</sup> [http://ec.europa.eu/dgs/home-affairs/what-is-new/public-consultation/2015/consulting\\_0029\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-is-new/public-consultation/2015/consulting_0029_en.htm).

international matching of labour migrants beyond the EU (see discussion below in Sections 6.1.1, 6.1.2 and 6.1.3).

**Recognition of qualifications.** Here, the Agenda sees the role of the EU as helping to “improve understanding of qualifications gained outside the EU”. This is to overcome the problems posed for matching migrants’ skills due to a lack of recognition of qualifications acquired by migrants in their home country. On 30 June, DG Employment convened a seminar addressed to Commission staff from different Commission services and representatives of networks of national experts, international organizations and public and private stakeholders. It endeavored to take stock of different EU initiatives and how these interact. The seminar reviewed both existing obstacles to this interaction and noted how better synergies might be created in the future in the context of the European skills agenda. The seminar also addressed recognition from different angles: addressing academic recognition, recognition of professional qualifications within the EU and recognition of qualifications acquired in third countries.

**Modernization of visa policy.** In this field, the Agenda commits to concluding by the end of 2015 a review about which nationalities require visa: for example, Peru and Columbia’s requirement for visas will likely be lifted. However, no new proposal related to labour migration is tabled in this regard.

**Integration of migrants.** Here the Agenda notes the available resources from the Asylum Migration and Integration Fund (AMIF), the European Regional Development Fund (ERDF) and the European Social Fund (ESF). 20% of the ESF’s resources will contribute to social inclusion, which includes measures for the integration of migrants with a particular focus on those seeking asylum and refugees as well as on children. Among other actions, these funds can support targeted initiatives to improve language and professional skills, improve access to services, and promote access to the labour market. This is admirable so long as they can contribute to facilitate the labour market integration of non-economic migrants in the EU.

**Cooperation with third countries.** Finally, instead of creating a specific pillar for migration and development links and cooperation with third countries, the European Agenda on Migration includes under the legal migration pillar “Maximizing the development benefits for countries of origin”. In this regard, there is no real initiative, but just a quick review of: the multilateral EU commitments and positions (in relation, for instance, to the inclusion of migration-related targets as part of the United Nations’ Sustainable Development Goals); bilateral agreements (in particular Mobility Partnerships); and cooperation in the field of labour migration management in the framework of the EU’s GAMM. The introductory sentence to this section, however, is rather misleading, in particular in the framework of current political sensitiveness on migration policies. It states that “the EU’s legal migration policy should also support the development of countries of origin”. However, in order to avoid undue confusion, the two policy objectives and policy areas should be clearly distinguished: whereas EU labour migration policy aims to meet the labour needs of EU labour markets, development cooperation in the field of migration should focus on maximizing the development impact of migration in countries of origin. Both policy areas may, of course, be complementary and find certain synergies. However, they should be kept clearly separated, since they pursue different objectives.

**“A new model of legal migration”.** The European Agenda on Migration also includes a fourth, forward-looking pillar (“Moving Beyond”), a one page synthesis of areas in which the Commission considers the need for future reflections: “if we are to address these issues

in an effective and sustainable manner in the longer term”, it is stated, European cooperation in the area of migration needs to go further. The third of these areas is “[a] new model of legal migration”. Here, the Commission “will look at the possibility of developing, with the Member States, an ‘expression of interest system’”. Little is said of this system, which is analyzed in more detail in Section 6.3.2. below.

Overall, this set of proposals do not seem to be up to the EU labour migration policy challenges as described in Sections 1, 2 and 3 above. They lack clear vision and ambition. They are not really new. They do not build a comprehensive and coherent policy. Nor do they make up for the shortcomings of the current EU labour migration policy (exposed in Section 1 above). They are not capable of responding to likely to respond to the identified and projected labour needs of the European Union over the medium- to long-term.

The proposal was fast-tracked and consultation with social partners and labour market actors was kept to a minimum<sup>60</sup>: it was rushed because of the prioritizing of the European Agenda on Migration; the dramatic events in the Mediterranean; and increasing political sensitivity to migration. As a matter of fact, the Agenda defines itself as “primarily focus[ing] on offering solutions in the short and medium term”. As a consequence, the endeavor to propose a comprehensive and balanced migration policy has suffered. In this regard, it is not surprising that the EU Immigration Code, proposed by the Commission in 2013 to consolidate the existing EU legal instruments, has not been included in the new political agenda. Indeed, without a proper implementation of consistent and binding legal rules adopted at the EU level, one might wonder what is the added value of yet another initiative in this field.

In terms of policy initiatives, the European Agenda on Migration suffers from a clear bias towards measures and policies to fight irregular migration, to face asylum-seekers flows and to strengthen external borders: this at the detriment of legal labour migration or migration and development issues (which is not even considered as a separate policy area). Beyond the obvious implications for the European labour markets and economic competitiveness, EU credibility in relation to partner countries will suffer from this weak approach to legal labour migration.

More fundamentally, after so many political failures (see Section 3 above), it is now time for the Commission to re-think the very concept of its “common” labour migration policy: It can opt for a soft approach, promoting greater cooperation among the EU and its Member States (implying for instance further policy dialogue and public consultations). Alternatively, it can regain its leadership, develop true review mechanisms of national labour migration policies, and strengthen its current legal instruments and its political action in this field to ensure their effective implementation. In any case, the inclusion of this issue in the European Agenda on Migration opens up a unique opportunity to discuss EU labour migration policy at the highest political level. That opportunity should not be wasted, but it requires a consistent public information and communication strategy on the realities of migration and the need for a comprehensive and coherent labour migration policy at EU level that unfortunately has not been included as part of the European Agenda on Migration (see MPC and Peter Bosch, 2015). As highlighted in Box 3 below, without such a strategy any policy reform in this area will be very difficult.

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<sup>60</sup> An Informal Expert Group on Economic migration created by DG HOME, which held a single meeting on the 25 March, was actually the only regular channel of consultation on this issue <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3253&NewSearch=1&NewSearch=1>.

### **Box 3. Attitudes towards migrants and immigration in the EU**

Regardless of technical analysis and policy debate on the need for international labour migration to fill the labour and skills gaps in the EU's labour markets, immigration has taken centre stage in the political debate in many European countries. It already features prominently in the political platforms of some political parties, including some mainstream ones (in the UK and France, for instance). This public debate is based largely on (often wrong) perceptions on the number, the profile and the integration of immigrants, rather than on objective facts. Generally, public debate on immigration is dominated by a series of stereotypes which tend to misrepresent the phenomenon and its impact (Fargues 2014). This makes migration policy reform, both at national and EU level, politically very difficult.

The increasing importance of this issue becomes evident in the Spring 2015 Standard Eurobarometer (released 31 July 2015). For the first time, the most frequent issue cited by European citizens as their main concern was immigration (with 38% citing it, against 24% in Autumn 2014), ahead of 27% citing the economic situation, which has been the main concern of European citizens over the last few years, and 24% citing unemployment. Immigration is the most frequently cited concern in 20 Member States, reaching peaks in Malta (65%) and Germany (55%) (see <http://europa.eu/rapid/attachment/IP-15-5451/en/ANNEX%20Spring%202015%20Standard%20Eurobarometer.pdf>).

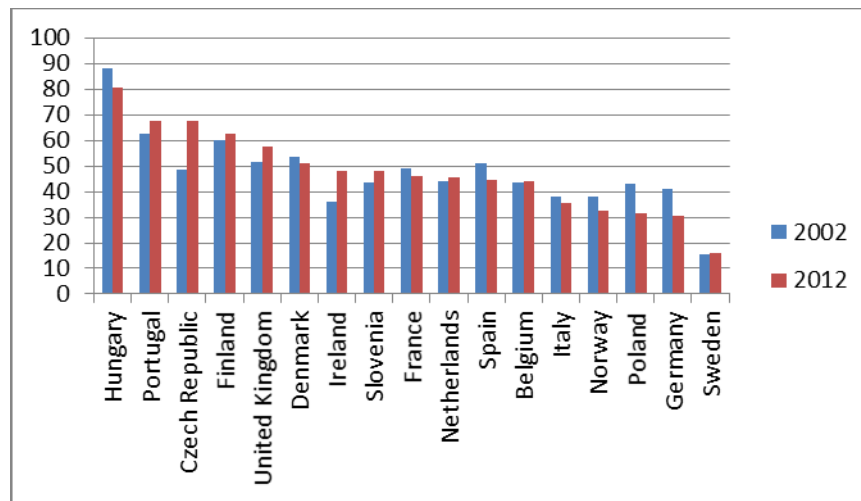
General public perception is that "We do not need migrants": analysis of the European Social Survey data from 2010 points to how, for over four out of ten respondents, immigration is perceived as leading to long-term negative effects on countries. This popular view holds irrespectively of the fact that Europe is experiencing population shrinkage, and a growing old-age dependency ratio. Indeed, immigration is seen by most analysis as a way of counterbalancing these trends (Fargues and Di Bartolomeo 2014).

Comparative analyses of attitudes towards immigrants across countries and time. Face big difficulties to assess how attitudes to immigrants and immigration have evolved. Studies incorporating longitudinal (repeated cross-sectional) element produced mixed evidence on trends in attitudes, which is explained by the different time period under examination, different datasets used, various attitudes examined, and the explanatory factors included to analyse these attitudes.

Generally the number of immigrants in the country tends to be overestimated by public opinion, and paradoxically the larger upward bias is characteristic of countries with lower migrant share (Citrin and Sides 2008). If we take the example of rejection towards admittance of new immigrants, in the early 2000s there seemed to be a "regional attitudinal divide" with higher shares of public opinion rejecting the new immigration in destinations of Southern and Eastern Europe with smaller immigration levels. Northern Europe and Scandinavia tended to be more welcoming (Meuleman 2009).

While the general public often overestimates the actual number of immigrants and prefers less immigration, the typical reason behind this is because it stereotypically makes the link between immigration and increasing unemployment. There is, the idea that "Migrants steal our jobs". This conviction that migrants take jobs from nationals is particularly pronounced in contexts with tougher economic conditions, which is of particular importance during the current crisis (Fargues and Kalantaryan 2014). Regarding to what extent Europeans are willing to welcome more/less migrants, it is the European Social Survey which provides most recent data. As Figure 12 illustrates, in Hungary opposition to new immigration from poorer countries outside the EU seems to be strongest, but it decreased in the last decade, as it did in Poland. In other new member states (Slovenia, and the Czech Republic in particular) negative attitudes are on the rise. This is also the case in some crisis-struck countries like Ireland and Portugal. Sweden has remained the country with most open attitudes.

**Figure 12. Number of respondents agreeing to allow a few/no immigrants from poorer countries outside of Europe (%)**



**Source:** European Social Survey 2002 and 2012.

As might be expected, it is persons in most vulnerable situation on the labour market (low skilled, unemployed, with lower education levels), who are in direct economic competition with immigrants who have the most negative attitudes. At the same time intergroup contacts seem to work in an opposite direction: people who have interactions with immigrants tend to display more positive sentiments. Moreover, right-wing voters are more likely to feel threatened and express more negative sentiments towards immigrants and immigration (Semyonov *et al.* 2006). The national context seems to matter as well, with more negative attitudes expressed in the contexts with: larger shares of immigrant coming from non-Western countries; worse economic situations; and higher votes for extreme right-wing parties (Meuleman *et al.* 2009; Schneider 2006; Semyonov *et al.* 2006; Sides and Citrin 2007). Blame for stagnant wages and rising unemployment is likely to be put on immigrants, especially during a recession.

Immigrants are often seen as a threat beyond the context of national economies. Public opinion tends to link immigration and crime, even if the concerns about causal link between the two have not been corroborated by empirical studies carried out in several EU Member States. Immigration may also be perceived as a threat to the collective identity of the host society. Especially migrants from diverse cultural and ethnic backgrounds may be seen as a threat to homogeneity of the receiving society. A particular case in point in this regard is Islamophobia, which has been thriving in Europe over the last decade.

Moreover, increasingly high votes for far right-wing parties in several EU countries (Bulgaria, Denmark, France, Greece, Hungary, Netherlands, the UK among others) are largely based on spreading anti-immigrant feelings, fuelled by insufficient or misleading information on immigration realities. In turn, anti-immigrant sentiments raised by the far right enter political debates and tend to shape the discussions about migration policies and the preferred levels of immigration. This has a knock on effect on mainstream parties potentially toughening their stance on the issues of immigration and the ensuing design of more restrictive immigration policies, regardless of any economic consideration. This is why migration policies debates should be accompanied by an information strategy providing facts on numbers and profiles of immigrants and highlighting the benefits of immigration.

## 6. EXPLORING NEW AVENUES FOR A COMPREHENSIVE LABOUR MARKET APPROACH TO LABOUR MIGRATION IN THE EU: PRELIMINARY ANALYSIS AND FEASIBILITY

### KEY FINDINGS

The analysis of existing options for developing EU labour migration policy with a comprehensive labour market approach suggests the following in terms of relevance and feasibility:

- **To improve labour matching within and outside the European Union, an EU-wide Labour Market Information System and an EU labour market needs forecasting system** integrating migration flows of non-economic migrants will be the basis of any effective, evidence-based labour migration policy at EU level. **The role of private placement agencies in international labour migration matching should be enhanced and regulated.**
- **To optimize existing labour force in the EU labour market:** the integration of non-economic migrants has to be supported; the intra-EU mobility of third-country nationals legally working in EU Member States should be facilitated; and the regularization of irregular migrants, for which there is a labour market demand not covered by nationals or EU citizens, should be incentivized.
- **As for the implementation of new labour migration entry channels into the EU, targeted and occupation-specific job search visas might be a more effective instrument to match EU labour migration policy to EU labour market needs than supply-driven “expression-of-interest” systems or points systems, as suggested in the European Agenda on Migration. The on-going reform of the EU Blue Card should impose fewer costs on migrants and employers and grant more rights, in particular for intra-EU mobility, to Blue Card holders.**
- **Foreign students graduating in EU education institutions should have some opportunity to access EU labour markets,** and an EU Traineeship Programme for third-country nationals could be another good way to extend the pool of potential third-country nationals with required skills. More generally, the recognition and certification of qualifications and skills obtained in third countries by third-country nationals should be facilitated and progress needs to be made towards an EU-wide recognition system.

Previous sections reviewed labour market shortages and labour market needs in the EU and analyzed to what extent the existing legal framework on legal migration responds to these. They also dealt with the impact of EU labour migration policies and legislation on inflows and the integration of migrants in the EU. The aim of this section is, instead, to undertake a preliminary analysis of policy options for developing a more comprehensive and effective EU labour migration policy.

The section is structured around four key dimensions, which have to be considered in advancing towards a comprehensive labour market approach to EU labour migration policy (see Table 4):

- First, policy tools to improve the labour and skills matching of international migration flows to the EU and EU labour market needs, hence ensuring efficiency of EU labour migration policy, basically through information and institutional tools.
- Second, policy measures to ensure the optimization of the labour force already in the EU. This will contribute to the overall efficiency of EU labour markets and defuse potential opposition to a more open labour migration policy in the EU (see Box 3). This would involve strategies to integrate non-economic migrants (including family members, refugees and foreign students), facilitating the intra-EU mobility of third-country nationals, and responding to irregular migration with targeted regularizations based on the systematic analysis of the social and economic effects of regularizations in the EU members states.
- Third, a review of the existing EU labour migration entry channels to overcome the paradox between the need for international labour migration given the impending demographic crisis in Europe and the lack of commensurate policy instruments to attract and integrate labour migration from third countries. In this regard, it is important to ensure a policy mix attracting the migrant workers to the EU with the required skills, including low-skilled migrants when needed.
- Fourth, instruments geared to extending the pool of potential labour migrants are needed to ensure a flexible and quick response in real time to developments in EU labour market needs: this would optimize the abovementioned new EU labour migration entry channels and labour and skills matching tools.

Table 4 summarizes the EU labour migration policy options briefly analysed in this section.

**Table 4. Policy dimensions and options for a EU labour migration policy**

Labour matching	An EU-wide Labour Market Information System
	An EU labour market needs forecasting system integrating migration flows and non-economic migration
	International Labour Matching Information Systems
	EU list of certified recruitment agencies
Optimizing existing labour force	Labour market integration of non-economic migrants (family reunification, refugees, foreign students)
	Intra-EU Mobility of third-country nationals
	Targeted regularization of irregular migrants
Labour migration entry channels	Highly-Skilled migrants: Reforming the Blue Card
	"Expression of interest" or point-based migrant pre-selection
	Targeted and occupation-specific Job Search Visas
Extending the pool of potential labour migrants	Work possibilities for foreign students
	EU Traineeship Programme
	Recognition of qualifications (including EU Skills Certification Office)



## 6.1. Labour matching

### 6.1.1. An EU-wide Labour Market Information System

**Description and justification.** The emerging EU-wide single labour market requires an EU-wide labour market information system (LMIS) to help make informed policy decisions and ensure EU-wide labour market matching. The EU-wide labour market information tools developed so far build a coherent whole, but do not amount to an integrated EU LMIS: such tools include European Employment Observatory, EU Labour Force Survey, European Vacancy Monitor, EU Skills Panorama, Cedefop Skills Forecast, the European Job Mobility Portal and EURES. In particular, this LMIS should integrate an EU Employment Information System aggregating the information available on labour supply and demand throughout the EU, particularly at the level of national public employment services (as an underpinning of effective intra-EU labour mobility).

On the other hand, an EU-wide LMIS of this kind would be the only way to operationalize the EU preference principle by conducting EU-wide labour market tests (see Box 2): i.e., a verification that there is not EU national worker with the required qualifications available at prevailing working conditions to fill a specific vacancy. In a EU labour market with free movement of workers and an EU preference (see Box 2), it does not make sense to keep applying national labour market tests based on national labour market information systems (those managed by public employment services) registering only national workers. A thorough research on how labour market tests are applied and how they work at national level could build the basis for developing an effective EU-wide labour market test. Such EU-wide labour market test to implement the principle of EU preference would be a way to: defuse political sensitiveness to opening up labour migration opportunities to third-country nationals (making sure that labour immigrants do not displace EU workers, see Box 3); linking intra-EU labour mobility with EU-wide labour migration policy; and fully integrating non-economic migrants with access to the EU labour market into the EU labour migration policy framework. Even if experience with labour market tests is very varied at the national level across the EU (see EMN 2015b), this is so far the only instrument we have to link labour market needs and labour migration policies. As such, to develop some form of it at EU level would greatly contribute to supporting the operationalization of a true EU labour migration policy and would help overcome the current segmentation of EU labour markets (and hence labour migration policies).

An EU LMIS would ideally involve an enhanced cooperation and coordination of work between several existing agencies and initiatives. Eurostat provides quarterly EU Labour Force Surveys and data on employment permits issued and data on vacancies. The European Vacancy Monitor provides up-to-date information about demand by jobs but also regions/countries. The European Employment Policy Observatory focuses on policy design, implementation and evaluation. Information coming from all these different sources should be integrated and jointly analyzed.

But, more crucial for the development of an EU LMIS would be the development of the EURES network into a true comprehensive employment information system on job offers and job-seekers across the EU. Currently, only a part of job offers available at national level are “uploaded” into the EURES system (depending on the decision of national EURES councilors and focal points). To progress towards a pan-EU LMIS, all information available for Member States’ public employment services should be integrated into an EU-wide Employment Information System.



**Analysis and feasibility.** What would the development of a pan-European Employment Information System (aggregating information on vacancies and job-seekers in all Member States) mean? Well, it would not require substantial administrative support at EU level, a new institutional setting, a change in the distribution of competences on employment policy or costly operational costs. It would simply draw the full consequences of the integration of EU labour markets brought about by the free movement of workers within the EU. The main challenge would be to develop a common technical platform compatible with current national employment information systems (in terms of language, use of standard ISCO codes...) and subsequently integrate them. In this regard, its implementation should be gradual and possibly asymmetrical across Member States (but obligatory once a Member State joins the system, what would require an ad-hoc legal framework to ensure the feeding and update of the system). This could be done on the basis of the current EURES portal, but making it comprehensive. As it is the case with EURES, the EU Employment Information System would be managed and implemented by national public employment services, in the framework of a common technical and operational framework and under the coordination of the European Commission (DG Employment). The only innovation would be to add an "information layer" aggregating information from all Member States' public employment services. It would work much in the way that national and regional employment information systems work together in an integrated way in several Member States. The system could incorporate the lists of shortage occupations already existing in some EU Member States (EMN 2015b). It would be funded by national public employment services (in the framework of their current functions and budgets), since it would contribute to let them better perform their functions.

In any case, it is important that the EU-wide employment information system integrates information on migrant workers legally residing in Member States. This would lead to a better use of the existing pool of labour. It would eventually facilitate the switch in status from non-economic to economic migrants (this is already possible in Sweden, for instance); or allow residence changes within the EU in function of the availability of work (and hence ensure the actual implementation of the EU preference principle, see Box 2).

#### 6.1.2. An EU labour market needs forecasting system integrating migration flows and non-economic migration

**Description and justification.** The EU Employment Information System would aggregate the information available on current labour supply and demand throughout the EU. But a labour market forecasting system, projecting labour demand and supply per country, per sector and per occupation, at an aggregate EU level, is a crucial stepping stone for the formulation of a truly evidence-based EU labour migration policy (see "Taking European Labour Market Forecasting to a Higher Level", MPC and Peter Bosch 2015). Despite earlier attempts, the EU still lacks a serious labour market forecasting system capable of recognizing migration flows as an integral part of EU labour markets. Labour market projections need to provide information on: 1) future supply by occupation at Member State level in a no-migration scenario; 2) future demand for the same occupations; and 3) the labour force movements (from some occupations to others, intra-EU or from third countries) necessary for addressing supply-demand imbalances.

This new approach would overcome the main drawbacks of current modelling approaches. The Cedefop model by forecasting the supply and demand for labour in all EU countries provides a preliminary measure of the gaps. However, the model is based on a forecast of the demand of goods and services, which is already a very difficult task, and the demand

for labour is derived from it. No development of labour market functioning or institutions nor innovations in the production systems are taken into account. No distinction between natives and foreign nationals is made. Nor are there any assumptions on future migration flows: so that migration is built into the projections, not calculated as a result of projections not taking it into account. This makes this approach difficult to use as a benchmark, in particular for labour migration policy purposes

**Analysis and feasibility.** Such a forecasting system would not require a new institutional setting or costly investments, but upgrading the current exercises in the framework of Cedefop or the European Employment Observatory and integrating the current forecasting exercises already carried out in many Member States (see EMN2015b, Table A2.4). The main change would be largely technical, rather than political or institutional. The outcomes of this kind of forecasting exercise could be an important input for the public debate on labour migration needs in the European Union.

This forecasting system should use the same methodology across different EU member states (current forecasting exercises are basically aggregations of national projections). It should take into account projected migration flows as fully as possible, including potential inflows of non-labour migration into the EU (family members, refugees, foreign students etc.) and their expected profiles.

### 6.1.3. International Labour Matching Information Systems

**Description and justification.** A logical way to facilitate the matching of labour supply and demand for migrant workers would be to extend current EU and Member States job intermediation mechanisms (notably public employment services matching systems) to third country nationals. An obvious step there would be to extend the European Job Mobility Portal, EURES, to third countries, in particular neighbourhood countries in the framework of Mobility Partnerships (so as to mark their “privileged” status in the field of migration). Even if the current working of EURES has many shortcomings, mainly due to the lack of comprehensiveness and institutional capacity to perform a labour market intermediation function, this extension would mark an important political message. This would provide citizens in partner countries with information about job vacancies in Europe (but also the corresponding job intermediation services, which should be upgraded and adapted to the specific needs of foreign workers). It would give EU employers a cost-effective way to access this pool of potential labour. Alternatively, EURES, which works as a network for the EU’s public employment services, could be linked to the labour-market information systems of public employment services in partner countries. In this way, it would make recruitment possible.

Similar systems are already operating effectively in Australia for skilled migration (SkillSelect <http://www.immi.gov.au/Work/Pages/SkillSelect/SkillSelect.aspx>, and in Canada [www.hireimmigrants.ca](http://www.hireimmigrants.ca)).

**Analysis and feasibility.** This can also be a good strategy to make international labour matching systems available to Small and Medium Enterprises: these have fewer resources to seek and attract foreign staff, and may otherwise need to use costly intermediary services to access international workers. In this way, they can make up for structural disadvantages in the competition for global talent.

In this regard, OECD (2014) suggests matching employers and migrants in virtual space, using web portals and databases. A potential limitation of such online direct matching tools

is that it is limited to IT literate, i.e. younger and better educated migrants. For less skilled migrants job intermediation services will be required.

Such an extension of national and EU job intermediation systems could fit into on-going EU external cooperation projects in the field of labour migration. The EU is funding several capacity building projects to develop labour market information systems and strengthen labour migration management institutional capacities in countries of origin (TEAM Project, Jordan, Ghana....). They are often implemented by public employment services in Member States (Pôle Emploi and Swedish public employment service, for instance). In this framework, some tests with job offers in Member States have been made (in Morocco and Tunisia) which have highlighted the challenges of this integration of information systems across countries (in terms of technological compatibility and format of offers, time constraints, expectations on candidates, pre-selection capacities...). They could form a basis to build on, but this would require the technical commitment of national public employment services in Member States and the political commitment of their authorities to facilitate the resulting legal labour migration, whereas the EU development cooperation funds could provide the funding under its current programmes.

Two key related challenges are to complement international matching tools with international skills and qualifications recognition processes (particularly crucial for highly-specialized and regulated labour market niches) – see Section 6.4.3 – and to skills development schemes. This would allow to make sure that skill gaps are filled so as for the matching to succeed (in terms of language proficiency but also in terms of vocational training).

#### 6.1.4. EU list of certified recruitment agencies

**Description and justification.** One possible approach to securitize the international recruitment process and at the same time overcome the bureaucratic restraints of public employment services would be the following: establish a list of private employment agencies with certifications assuring high standards of service and protection of migrant workers. This would require the detailed regulation of the work and activity of such international private employment agencies, including issues related to direct and indirect fees that can be charged to migrant workers in order to eliminate abuse practices. Regulations would also define the relationship between the migrant workers, agencies and employers, and ensure that immigrants receive full information about their rights. Certification would provide common quality standards for agencies operating in different countries of origin. By promoting best practices, certification would also enhance competition on the recruitment agencies market.

A similar system would be to establish a list of “trusted” recruiters or trusted employers who fulfill a series of criteria and who are able to recruit internationally through a fast track system (hence reducing costs in international recruitment). An inspiring practice in this regard comes from the Netherlands, where employers wishing to hire migrants may apply for a recognition as a sponsor. This “trusted recruiter” status is optional if certain conditions are met and it requires completion of a procedure outlined by the Immigration and Naturalisation Service (IND). Recognized sponsors have advantages including: faster admission procedure (decision on an application can be taken by the IND sometimes within two weeks); less documentation requirements (in some cases the statement of the employers will be sufficient); and the assignment of a dedicated contact point in the IND (see <https://ind.nl/EN/business/employer/working-as-employee/recognition-sponsor>).

**Analysis and feasibility.** The successful regulation of recruitment agencies should be analysed in relation to: 1) how much regulation is really needed; 2) addressing actual sources of exploitation and abuse; 3) cooperation between sending and receiving contexts, which is required considering the agencies operate in-between the two (Agunias 2013). This kind of approach has been successfully implemented in Asia (where private recruitment agencies play an important role in international migration, for instance in the Gulf countries). There are also some recent global initiatives in this field to which it would be possible to link, such as the International Recruitment Integrity System launched by the International Organization for Migration (<http://iris.iom.int/>) or the Fair Recruitment Initiative set up by the International Labour Organization (<http://www.ilo.org/global/topics/fair-recruitment/lang--en/index.htm>).

In the current legal framework, only Member States can create their own lists of certified recruitment agencies. Nevertheless, taking into account the intra-EU mobility of workers, some form of coordination at the EU level might be envisaged. There is even the possibility of the development of an EU-wide common framework, for instance through an EU Directive setting minimum standards.

## **6.2. Optimizing existing labour force in the EU**

### **6.2.1. Labour market integration of non-economic migrants (family reunification beneficiaries and refugees)**

**Description and justification.** As highlighted in Section 4.2., most non-economic migrants end up entering the labour market. However, their integration into the labour market poses bigger challenges, for instance in terms of overqualification, than in the case of economic migrants (see Figure 11 above). Since up to 80% of first residence permits granted to third-country nationals in the EU are for non-economic reasons (see Figure 1), this is a huge largely untapped labour force. Integration into the labour market of third-country nationals already present in the EU would have a positive effect for public perceptions of migration. It would, after all, challenge discourses about abuses to the welfare system and highlight their contribution to growth.

Therefore, in the light of increased refugee inflows into Europe, in particular, it is essential that “increased and directed integration resources to accompany larger intake of refugees” are mobilized (Bevelander and Irastorza 2014). Linking labour migration policy with family reunification and international protection would be a win-win strategy. But it would require the decompartmentalization of current migration flow management. For instance, reception conditions for asylum-seekers might be combined with temporary work programmes fitting their skills and qualifications (Long 2015). Access to work, even if temporary, may serve as a test of migrant skills, which may be a factor behind the effectiveness of wages and training subsidies (for Denmark see OECD 2007).

**Analysis and feasibility.** A first step to optimize the labour market integration of non-economic migrants is to have a thorough knowledge of their skills and their professional profile. Data on them are relatively easy to obtain, since by definition they go through Member States’ administrative systems, but there is a big deficit of knowledge about them. Integrating a simple question on the entry status of third-country nationals residing in the EU into the EU Labour Force Survey would greatly improve the level of knowledge we have about non-economic migrants. Research into the main obstacles to their labour market integration is also needed in order to inform policy in this field, and in particular migrant support measures in countries of origin (for family reunification beneficiaries,) or transit

(for refugees) and in countries of destination to facilitate their integration. These support measures may be designed taking into consideration labour market needs (in terms of skills for instance). Italy has implemented basic language and cultural pre-departure training for these migrants in around 30 countries of origin in the last few years, and this could be extended to genuine vocational training.

Finally, easing the changes in migratory status from non-economic to economic migrants for family reunification beneficiaries and even possibly asylum-seekers already residing in the EU would greatly facilitate labour market integration. To the extent that those migrants are already present in EU societies, it would help defuse negative public perceptions about migrants.

However, one issue to consider carefully in this context is the issue of incentives to work and labour market entry channels. The Swedish government, for instance, runs introduction programmes directed at family members during the first years after their arrival in Sweden. As the programmes are operated full-time, they delay labour market access of non-economic migrants. The labour participation rates grow over time, but they lag behind those of labour migrants and natives. Some of the reasons explaining this is the dual nature of the labour market in Sweden. Most of the labour market is highly regulated, where hiring and firing costs and minimum wage remain relatively high, thus hampering entrance to permanent positions. So the main route to employment for lower skilled non-economic migrants without context specific skills may be through temporary contracts, but these do not ensure a good labour market integration. One way to ensure the economic progress of migrants is to combine these temporary jobs with training related to country/sector/occupation specific skills. The right training schemes will allow them to use temporary jobs as a stepping-stone to more skilled employment (Bevelander and Irastorza 2014).

#### 6.2.2. Intra-EU mobility of third-country nationals

**Description and justification.** Currently, third-country nationals legally residing in EU Member States enjoy equal treatment in principle after five years, and hence the right to free movement within the EU. The removal of physical borders among Member States also facilitates the circulation of other third-country nationals. However, as explained in Section 3.1, this right in principle of TCNs to free movement within the EU after five years of legal residence or if they hold a EU Blue Card, for instance, is limited in practice by the wide discretion of Member States to impose national measures such as labour market tests (Article 5 of the Blue Card Directive and Article 14 LTR Directive). These legal barriers come on top of other material obstacles preventing intra-EU mobility both of TCNs and EU citizens, such as the limitations to the portability of social rights, language barriers or the lack of true European labour market, including a EU-wide job matching system. In any case, the actual size of intra-EU mobility of third-country nationals is difficult to quantify, given the lack of statistics, and in particular the problems of cross-national comparability. Existing evidence suggests that the volume of intra-EU mobility of third-country nationals is relatively limited, even if efforts were made in order to facilitate it for some groups of migrants: apart from those with long-term residence, Blue Card holders, students and researchers. However, conditions remain very different across Member States, and are subject to a high degree of discretion (see Section 3).

This notwithstanding, third-country nationals already residing in a Member States are a potential untapped labour force resource to fill labour market needs in other Member States, in particular if they are unemployed or underemployed. Low levels of intra-EU

mobility among third-country nationals constitute a limiting factor to “a real European labour market”. Potentially mobility would improve the functioning of the labour market, which irrespective of high unemployment has persistently a number of hard to fill vacancies (1.5 out of 100) (EMN 2013; ETUC 2012). Given their migration experience, their labour market integration should be easier than for other third-country nationals.

**Analysis and feasibility.** Some countries facilitate labour market mobility of third-country nationals by simplifying the procedures for labour market access and reducing requirements: this contrasts with newly arrived third-country nationals who have to obtain work permits and for whom labour market tests apply. Spreading this kind of simplified procedures could encourage the intra-EU mobility of third-country nationals who are already legally residing in other Member States and hence already present in the EU labour market. Extension of EURES services to all third-country nationals legally resident in the EU could also improve their access to information about jobs in the EU and consequently their mobility levels (for now only long-term residents formally have this right, see Pascouau 2013). An information campaign about intra-EU mobility right should follow, not least because mobility right would make the EU a more attractive destination (EMN 2013).

One obstacle to the intra-EU Mobility of third-country nationals would be a minimum wage required to obtain a residence and work permit, which in some countries is set to a higher level than for the EU citizens. Similarly, additional requirements from entrepreneurs and the self-employed may hamper the mobility of third-country nationals. In this respect, in particular in the case of seconded workers, it is important to establish safeguards to avoid exploitation and social dumping (such as the application of the work conditions agreed in sectorial collective bargaining or reinforced labour inspection).

Recognition of qualifications may also pose a barrier to mobility, so the common EU standards could be a solution over the long term. In the short term, Pascouau (2013) proposes a more flexible system where recognition of qualifications could follow after three years of work experience in a given profession in one Member State.

### 6.2.3. Targeted regularization of irregular migrants

**Description and justification.** Irregular migrants, to the extent that they have (informal) jobs, fill a labour market need. Indeed, irregular migrants respond to high demand in particular, often low added-value, sectors (like domestic care and construction, and less so agriculture, see Section 2 above). But they distort the functioning of the labour markets, reducing tax revenues and undermining the work conditions of other workers. Targeted regularizations of third-country nationals working illegally, whenever they have jobs, can help to reduce the size of the black labour market. The basic principle should be that irregular migrants working in the EU are filling a labour market need, so the job should be formalized and the irregular migrants regularized. On the other hand, regularizations, as the only channel to enter the EU labour market, show the shortcomings of legal labour migration policy instruments.

Considered as a successful intervention (even if widely criticized by some other Member States), regularization in Spain in 2005 was designed as a part of a plan to combat irregular employment. Thus, regularization was implemented along with amnesties for employers who had given jobs to irregular migrants and who were not paying taxes and social security. There were, also, workplace inspections and sanctions for employers who did not regularize their employees. Regularization followed broad social consultations that



took place with various stakeholders: trade unions, employer confederations and migrant organizations (Arango and Finotelli 2009).

**Analysis and feasibility.** Regularization initiatives should be carefully prepared, however, in close cooperation with social partners (employers and employees) and done in a way so as to make sure that these regularizations do not attract new irregular migrants. The regularization could work as a “corrective device” (Brick 2011), to adjust to actual labour market needs for migrant labour. Bringing migrants into the formal economy should produce a positive impact on their working conditions and protection against unfair employer treatment.

Although regularizations are currently within the competence of Member States, there is a role for the EU. Quantitative estimates and simulations of the possible impact of regularizations on tax revenues, social security payments but also other, non-tangible benefits and (possible) costs in terms of social cohesion might be a useful way to support the case for regularization. They would also make sure that they fit into the overall EU labour migration policy objectives: a classical example comes from the Spanish government, Sebastián 2006. In this respect, it would be important to carry out a systematic analysis of the (social and economic) effect of regularization in the EU Member States and to analyse the long-term results and effects of recent regularization campaigns in the EU. Regularization efforts have to take into account regularization experiences in different countries, their bases, scale and circumstances.

### **6.3. Labour migration entry channels**

#### **6.3.1. Highly-skilled migrants: Reforming the Blue Card**

**Description and justification.** There is a wide consensus that the EU should improve its channels for legal migration to meet its labour market needs, in particular for qualified workers. And the Blue Card, as a supposedly innovative tool to attract this specific category of migrants through a common regime for the whole EU, has an important role to play in this framework. Its demand-driven approach is also appropriate for a labour market with such high levels of unemployment among qualified workers in some Member States and a comprehensive system of welfare benefits. However, the EU Blue Card system does not respond, at least as it is presently configured, to the EU’s needs for highly-qualified labour (see Kalantaryan and Martín 2015). It is too costly for all parties involved: employers, beneficiary migrant workers and implementing States. It does not provide sufficient additional rights to make it attractive for potential beneficiaries: in terms of free access to the labour market of other EU Member States; right to family reunification or prospects of getting a permanent residence permit in the EU. Nor does it ensure real added value in relation to highly-qualified national migration schemes. This is reflected in the low numbers of applications and the low number of blue cards granted. As a labour migration instrument, it seems to be limited in practice to one country, Germany: Germany had lacked a legal migration scheme for highly-qualified third-country nationals and has a well-identified need for university graduate workers. It is also largely limited to multinational companies with a European reach: small and medium companies seem to be all too often excluded because of the high cost, though there is no data on the distribution of Blue Cards across employer company types.

Actually, many of the provisions of the Blue Card Directive, and the way transposition into national legislations was conceived, are geared to restricting the number of beneficiaries rather than to facilitating the matching between EU labour demand and international skilled

workers. As such, they tend to discourage talented workers rather than attracting them, in particular if these workers have alternatives.

**Analysis and feasibility.** For the Blue Card to become a true EU-wide labour migration instrument, and some key policy reforms are outlined below (for a more thorough analysis, see (see Kalantaryan and Martín 2015):

- **One Blue Card giving access to the whole EU labour market.** The Blue Card should revert to the original idea of one umbrella work permit for the whole EU: i.e., a single permit allowing for free movement and the right of establishment within the EU labour market. Access to the labour market of other Member States should be automatically guaranteed for beneficiaries of the Blue Card, after a short qualifying period in the job for which the Blue Card was granted (currently it is eighteen months, and access is not automatic). There should be no need for another administrative procedure to apply for it. This requires a higher level of harmonization (and maybe simplification) of Member State legislation: the one resulting from the Blue Card Directive, which has in fact led to multiple national Blue Card systems instead of a single one. There is no reason why this would cause “prejudice to the right of the Member States to determine the volume of admission of third-country nationals entering their territory from third countries for the purposes of highly qualified employment” (point 8 of the Preamble). It would not, then, require a change in the current distribution of competences.
- **EU Blue Card and national labour migration schemes can coexist without any dysfunction.** If the objective is to develop a flexible system that is responsive to national and EU labour market needs as they emerge, the coexistence of several systems is not detrimental to the overall objective. Economic actors will seek in each case the scheme best adapted to their needs.
- **The cost of benefitting from the Blue Card should be reduced.** The high salary threshold established (minimum of 1.5 of the average national salary, even if not all Member States respect this minimum) can only result limit the Blue Card to very specific cases (such as multinational companies). It also penalizes those sectors with lower than average salaries in the economy.
- **Rights attached to the Blue Card should be enhanced.** Residence permits for family reunification for the relatives of Blue Card beneficiaries – one of the main advantages of the Blue Card in relation to national systems – should be granted at the same time that the Blue Card is given. On the other hand, the maximum period for granting the Blue Card should be extended to five years that would entitle beneficiaries to a permanent residence permit according to EU legislation.

### 6.3.2. “Expression of interest” or point-based migrant pre-selection

**Description and justification.** Among the three ideas for longer-term reflection on EU migration policy, the European Agenda on Migration refers to “A new model of legal migration: The EU Treaties reserve the final decision on the admission of economic migrants for Member States. However, the EU needs to look at how to marry this limitation with the collective needs of the EU economy. In particular, the Commission will look at the possibility of developing, with the Member States, an ‘expression of interest system’. This would use verifiable criteria to automatically make an initial selection of potential migrants, with employers invited to identify priority applicants from the pool of candidates, and migration taking place after the migrant is offered a job. This would allow for the creation of an ‘EU-wide pool’ of qualified migrants, accessible to both employers and Member States’



authorities – but with the actual selection and the admission procedure remaining national, based on Member States’ actual labour market needs”.

One possible reference system often mentioned in this regard is the express entry system which has been operating in Canada since the beginning of 2015<sup>61</sup>. This is an online pre-selection tool which collects permanent residence applications of prospective migrants, limited however to certain economic migration categories. Candidates can make applications at any time, and there is also no pre-established quota for Express Entry applications. Before submitting their application, candidates may check their eligibility online. If they are eligible, they can create their Express Entry profile. Profiles collect information about skills, work experience, language skills, and educational credentials. The ranking system also takes into account having a job offer (in particular one supported by Labour Market Impact Assessment) and a nomination from a province or territory. Ranking system is transparent and publicly known. Highest ranked applicants are invited to make an online permanent residence application within a 60 day period. Submitted applications are processed within six months. Express Entry applicants without job offer or province or territory nomination must register with Job Bank, otherwise their Express Entry profile expires.

One advantage of Express Entry is initial pre-selection. It assesses the education of migrants, but not for migrants who have recently worked in Canada for at least one year or worked in a skilled trade. Moreover, the Express Entry provides the link between potential employers who cannot find Canadian or permanent resident workers to fill the vacancies and migrant workers. Express Entry provides fast processing times and efficient pre-screening service. The system selects candidates that are most likely to be successful in their economic integration in Canada. Thus, the scheme seems to be particularly attractive to international students due to their young age, high education, language knowledge and work experience in the country. Due to job offer factor, employers’ needs are part of the system with hard to fill vacancies specially opened to migrant workers. Also, due to the province and territory nominations factor the system builds labour market needs permanent residence considerations.

**Analysis and feasibility.** Even if the Commissions formulates this idea only as a point for future reflection, the implementation of such a system from an administrative point of view is unclear. As it is presented, it would entail the creation, within the European Commission, of a new labour migration administration, however small, to manage the system. Indeed, it would introduce an additional level of decision-making in the migration process: the EU making the initial selection, but Member States keeping the competence of admission. This would require the development of *ad hoc* administrative capacity.

On a more general level, in Europe, a point or “expression of interest” system that would not be limited to candidates having a concrete job offer would risk increasing the pool of unemployed graduates. It might also displace EU nationals against the EU preference principle, substituting for intra-Community labour mobility. In the absence of a comprehensive welfare system for unemployed workers, the adjustment in the labour market usually happens through the acceptance of jobs and occupations under their level of qualification by national or migrant qualified workers. This is often the case in countries implementing a point system such as Canada or the UK. It leads to high levels of underutilization of skills of migrants. But in Europe this might actually mean more graduate unemployment and a heavier burden for the welfare state.

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<sup>61</sup> <http://www.cic.gc.ca/english/immigrate/express/express-entry.asp>.

The analysis of EU labour markets shows that migrant labour needs do not target graduate workers at large: these have high levels of unemployment in several Member States, in particular in Southern Europe. They regard very specific highly-skilled occupational profiles, and any EU labour migration instrument should be geared to those needs.

### 6.3.3. Targeted and occupation-specific Job Search Visa

**Description and justification.** There is a clear need to develop a flexible, market-oriented EU labour migration scheme able to respond to EU labour market needs, one that can ensure a smooth matching of international labour demand and supply in line with EU competences. An option to consider here might be some form of job search visa for specific categories of third-country nationals. This would be a visa granted to specific categories of potential labour migrants for a certain period (six months seems reasonable) to look for a job in the EU as a whole. If holders got a job offer in a Member State, the job would correspond to that State and its national regulation, according to the EU distribution of competences, to decide on the granting of a work permit. The beneficiary should leave EU territory when he or she does not get a job offer or work period within the validity period of the visa. Targeted, occupation-specific job search visas are a potential tool to attract talent, especially the young and skilled who do not possess work experience, but the stakeholders involved should be aware that not all job search visas will actually result in a migrant job seeker finding a job position, while those who are unsuccessful will not always leave the EU (OECD 2014).

**Analysis and feasibility.** The risk would be of course for those job search visa holders to overstay their period of legal stay and become irregular migrants, but this system would at least open up a channel for legal migration to the EU (and potential overstayers would in any case belong to specific categories required by the EU labour market). On the other hand, the advantage of this system would be that it could be modulated so as to apply only to: certain occupations or professions (depending on EU labour market needs); certain nationalities (depending on EU migration policy dialogues with third countries, for instance in the context of Mobility Partnerships); or qualification profiles. It could even be combined with a quota system, as long as Member States continue to decide on numbers. Actually, job search visas could be granted exclusively, for instance, for TCNs with qualifications corresponding to shortage occupations as defined in the framework of the EU-wide LMIS (see Section 6.1). Unlike point systems, no permanent permit would be given to migrant workers without making sure that they have a job. Germany has been implementing, since 2012, a similar system on a pilot basis for foreign workers with qualifications obtained in German institutions or recognized in Germany. But the scheme has been little used to date. This could be extended to any qualification granted or recognized in any Member State. Provided that there are effective mechanisms to implement the EU preference principle, the EU job search visa might contribute to striking an appropriate market equilibrium and balance between intra-EU mobility and international migration.

Implementation in some European countries shows that the scheme does not necessarily lead to finding employment and in particular skilled employment (see Denmark, Netherlands and Norway in OECD 2014). The share of migrants who do not succeed to find a qualifying job during the search period remains high: the scheme was halted in Norway for this reason. This suggests that the selection process and design of selection criteria should be reconsidered in the light of actual labour market needs. Another challenge may be employers' lack of trust in the skills of foreign workers. This is why a capped pilot scheme (limiting the total number of job search visas granted to identified vacancies in a

certain occupation, for instance) with carefully established criteria of eligibility could be usefully introduced. In a first stage, to ensure success some resources might be invested in the selection of the candidates (in the framework of EU development cooperation programmes, for instance). Such a pilot would allow an evaluation of both successful job searches and the numbers overstaying (OECD 2014).

## **6.4. Extending the pool of potential labour migrants**

### **6.4.1. Work possibilities for foreign students**

**Description and justification.** The number of international students in Europe rose significantly over the 2000s. Eurostat data shows that one fifth of the first residence permits issued to third-country nationals were issued for education reasons (over 495,000). Study purposes (as per the Students Directive – in which Ireland and the UK did not participate) constituted 40% of these. Countries which issue most first permits for education reasons are the UK (around half of all permits issued), France, Germany, Italy and Spain. The EU attracted international students through policy dialogues with third countries, bilateral agreements and initiatives aimed at facilitating mobility and Joint Consortia Scholarships.

The internationalisation of higher education is driving the process, but, as an EMN Report (2012) states, in many countries attracting students is closely linked to attracting talent and retaining a skilled workforce. Some countries define priority fields of study: e.g. engineering, business and law in France. However, international talent attracted by European universities is little utilised economically beyond the revenues to universities and services provided in local communities. Given the numbers of students involved, the fact that they are positively-selected, their European diplomas (easily recognised by employers) and their language skills there is a potentially useful pool here of highly-skilled workers. Drawing on this pool, though, would involve a clear and coherent strategy. In many Member States the policies regarding international students are divided between different ministries. Also, at least in some of the member states there is a general debate because of the ongoing recession and high unemployment levels, in particular among younger cohorts (EMN 2012).

Employment options upon graduation may enhance the attractiveness of European destinations to third-country students. Whereas some countries provide for the possibility of obtaining a job-search visa after the end of studies, a number of countries allow international students to stay only if they have a job offer or only if they are continuously employed: requirements differ, of course, by country. Generally, requirements differ with regards to academic profile, minimum wage and access to capital (in case of the self-employed). While there is space for the removal of some of these requirements, this should coincide with an information strategy about options to stay in the EU. In particular during the period upon graduation international students experience barriers to accessing employment (German case, see Morris-Lange and Brands 2015).

Finally, impact of international students is also in the fact that they may bring their family members, also a potential pool of workforce. Many countries allow accompaniment of international students by family members (depending on the country lists of family members allowed for accompaniment differ, and there are also additional requirements) (EMN 2012).

**Analysis and feasibility.** In different member states legally worked hours for international students range between 10 in Luxembourg to 25 hours a week in Finland and Hungary, extended to full time work during public holidays. International students are not limited by legally worked hours in the Czech Republic and Sweden. However, the policies should not be limited to providing access to employment, but rather using skilled workforce potential. EMN report (2012) finds evidence that international students labour market participation is often part-time and in low skilled sectors of economy, suggesting that it is an income generating strategy rather than enhancement of skills and career prospects. In the UK there is more evidence of skilled employment in IT, engineering, banking and health sectors.

Moreover, there is space for enhancing links between industry and academia in order to tailor international student programmes to labour market needs. There is some evidence of this already (EMN, 2012):

- Academic programmes in response to labour market/strategic needs (Finland, Poland)
- Work training programmes for international students (Finland)
- Mentoring programmes (Austria)
- Career services offered by universities (Netherlands, Poland)

#### 6.4.2. EU Traineeship Programme

**Description and justification.** The development of an EU-wide traineeship scheme for third-country nationals, either already living in the EU, for instance as foreign students, or not, might be a less radical version of the above-mentioned job search visa. It would grant them a temporary permit for the period of the traineeship plus some additional months: Member States could establish national quotas for these kind of permits, in line with their competence in this field. In practice, since those trainees could move freely within the Schengen space, this would informally work as a job search visa, but targeted exclusively to vocational education and training or university graduates completing a traineeship period with an EU employer.

There are already several interesting examples of international traineeship programmes in EU Member States. For instance, in Luxembourg a temporary residence certificate is offered to third-country nationals who come to the country for unpaid training (not employment) that exceeds three months. They may, however, be offered benefits (such as accommodation or food allowance etc.). Unremunerated training is understood as obligatory professional training. The training agreement has to be signed between the host and the trainee. Candidates need to apply in the country of origin, unless they are in possession of a residence permit in Luxembourg. Candidates need to prove they have sufficient resources for the traineeship period and for returning to their country of origin. Applications are processed within three months. Upon arrival to Luxembourg trainees have to apply for a residence permit that is given for the duration of the traineeship, but maximum for one year duration. Temporary residence permits do not include paid traineeships, as they require a work permit (websites of Le Gouvernement Du Grand-Duché de Luxembourg; Ministère des Affaires étrangères et européennes).

In Belgium, work permits for trainees are offered for candidates between 18 and 30. They do not have to undergo labour market test, but traineeship must be a continuation of

education. Maximum traineeship period is one year and minimum remuneration requirements apply (Antoons and Pirotte 2013).

In Germany, the Gesellschaft für international Zusammenarbeit has successfully implemented a project to place unemployed Tunisian engineers for six-month internships in German companies, benefitting from a EU Blue Card as work permit. 70% of the 100 beneficiaries were subsequently offered a permanent job (see Martín *et al.* 2015).

**Analysis and feasibility.** Such a programme could be designed and implemented at EU level, through a joint initiative. The period of such training should be between three and twelve months and it should be offered in areas with labour market needs in different sectors, occupations and regions. There should be requirements on maximum working hours and minimum wage levels, required language skills and qualifications... Ideally, the training programme could be used by employers to develop and test the skills of the trainees in the real work settings. The traineeship programme should also provide for options to fast change of status from trainee to worker upon successful completion of the training programme.

Public acceptance of international trainees is much higher than for other categories of labour migrants as such, and hence this might become a "soft", public-opinion-friendly way to expand legal labour migration to the EU. The traineeship period also offers employers the opportunity to test the skills and professional capacity of employment candidates.

#### 6.4.3. Recognition of qualifications (including EU Skills Certification Office)

**Description and justification.** Measures addressing the assessment, certification, validation and recognition of (potential) migrants' skills are crucial if one aims to reduce skill underutilization and brain waste. Still, efforts in this direction are limited. Building on existing programs in some Member States like Sweden, the EU should aim at promoting mechanisms (testing schemes) enabling swift and full recognition as well as portability of qualifications that migrants and people from a migrant background bring. To achieve this goal, deeper collaboration with the DG Employment, Social Affairs and Inclusion and DG Education and Culture is necessary.

Some form of assessment of qualifications could be applied already at the pre-departure stage, as a part of pre-screening tool. Also, some countries include recognition of qualification as a part of the introduction programme to newly arrived migrants. A one-stop shop for qualifications recognition could be set up. Also, process of qualifications recognition should involve employers to make sure that the skills respond to labour market needs. In Netherlands, for instance, diverse stakeholders have impact on skills assessment methods (employers organizations, trade unions etc.). Awareness about the importance of recognition should be raised among employers and migrants. This would be possible through information centres and portals (already operating in some countries). Holistic approach to qualifications recognition should also include language training (IOM LINET 2012).

Time cap on the recognition of qualification period should be clearly stated and observed. Data from Australia, Denmark and Italy suggests that recognition of qualifications has positive effect on employability and migrant careers. (Schuster *et al.* 2013).

**Analysis and feasibility.** An important, related aspect, is the recognition of diplomas obtained in the EU by third-country nationals. Diploma recognition within the EU has been

approached so far as an issue of EU citizens' rights rather than an issue of economic efficiency. EU citizens are entitled to the recognition of the diplomas, certificates and other professional qualifications that they have obtained in any Member State of the EU. But this equal treatment benefit only applies to third-country nationals if they are family members of Union citizens or are covered by specific Union legal acts (long-term residence, refugees, blue-card holders or scientific researchers). Even this is subject to quite restrictive conditions. The result is that the same degree granted by an education institution of a Member State obliges all other Member States to recognize it when granted to an EU citizen, but not necessarily if granted to a third-country national. This makes no economic sense, to the extent that it reduces the potential pool of qualified (migrant) workers from which EU employers can fill their vacancies, and hence is a significant obstacle in achieving the objectives of an EU labour migration and labour market policy.

Pascouau (2013) suggests that Mobility Partnerships may provide the opportunity to discuss and implement recognition of qualifications, but so far this has been limited to general statements. Specific agreements with third countries should follow, regarding qualifications and diplomas offered by education institutions in these countries.

## 7. CONCLUSIONS AND MAIN RECOMMENDATIONS

### KEY FINDINGS

- **A comprehensive labour market vision of the EU economic migration regime should, over the medium-term, replace the current sectorial, specific-categories approach.**
- **EU labour migration policy should be defined as an integral part of the EU labour market policy.** This has implications for the current distribution of competences between DG HOME and DG Employment.
- **The operationalization of the EU preference principle** should make it possible to establish a link between intra-EU mobility and international labour migration, as for employers they are perfect substitutes.
- **Social partners and social dialogue mechanisms are a necessary component of any EU labour migration initiative.** They both define an EU labour migration policy responding to the actual needs of the labour market and help defuse misrepresentations of migrants in political discourse and public opinion.
- **A public information and communication strategy on the realities of migration and the need for a comprehensive labour migration policy at the EU level** should be an integral part of any policy debate in this field: this is necessary given the strong anti-immigration attitudes in wide sectors of public opinion in many Member States.
- **The analysis of existing options** allows to draw some conclusions on the right mix of policy instruments for a comprehensive labour market approach to EU labour migration policy in terms of **new channels for legal labour migration to the European Union**. The main objectives would be the following: ensuring more efficient international labour matching of migrant workers; optimizing the labour force already present in the EU; fitting legal migration channels to the needs of the European labour markets; and ensuring the availability of a sufficient pool of potential labour migrants for employers.
- **Legal labour migration opportunities to the EU should be integrated into EU migration agreements with third countries** (such as Mobility Partnerships), along with mechanisms to facilitate the labour and skills matching for migrant workers from those countries. This would allow the articulation between EU labour migration policy and EU external cooperation in this field.
- **Finally, more research and the better production of data are crucial components of any evidence-based effective labour migration policy at EU level.** In particular, more research is needed in the following areas: labour market integration of non-economic migrants; patterns of intra-EU mobility of TCNs legally residing in the EU, and mechanisms to better match the profile of labour migrants to the need of the EU labour markets. Experience in the implementation of labour market tests in different EU Member States, their relative performance and the potential for an EU-wide labour market test should be further explored.



**A comprehensive labour market vision of EU economic migration regime.** The current piecemeal, category-specific approach to legal labour migration at the EU-level analyzed in Section 3 has advanced this field against the protracted resistance of some Member States: regimes have included the EU Blue Card for highly-qualified migrants, intra-corporate-transfers, foreign students and seasonal workers. This fragmentary approach can, indeed, contribute to some, very specific, short-term needs. However, it does not provide the comprehensive vision of the EU labour market and the role of labour migration required in view of the gradual unification of EU labour markets: this is a clear trend, fully in line with EU economic integration process, even if it is still very incomplete and clogged up by the economic crisis. The European Commission proposed, in 2001, a Directive on admission for economic purposes but this was rejected by the Member States<sup>62</sup>. The current work on the European Agenda on Migration could be the appropriate framework to bring back that holistic vision (of course, adapting it to current needs and circumstances), but so far it is not being the case.

**EU labour migration policy should be defined as an integral part of EU labour market policy.** As such, it should incorporate measures to facilitate the labour market integration of all flows of third-country nationals into the EU labour markets. This should include family reunification beneficiaries, refugees and foreign students. Their transition into the EU labour market should be supported by pre-departure and post-arrival training as well as skill-development programmes and specific job search support services. The design of these migrant support measures should be based on a sound understanding of why they fail to integrate into the EU labour market. Along the same lines, EU labour migration needs should be determined, taking into account those flows as well as potential intra-EU mobility of EU nationals from other Member States. This would require a comprehensive EU-wide labour market information system (see Sections 6.1.1 and 6.1.2). EU labour migration policy should be flexible enough to respond to EU labour market needs and to match the work permits granted to migrant workers to those needs, discriminating between temporary and permanent labour market needs.

**An operationalization of the EU preference principle.** This is crucial to ensure the smooth implementation of any EU-wide labour migration scheme and the articulation between international migration and the intra-EU mobility of EU nationals. Both are, indeed, perfect substitutes for employers in the labour market. It is necessary then to develop, as a complementary measure, the modalities of implementation of the EU preference (see Box 2 above), both for EU nationals of other Member States and for third-country nationals legally residing on a permanent basis in other Member States; this includes family reunification beneficiaries, refugees and former labour migrants<sup>63</sup>. However, that would pose a major policy challenge, in as much as the implementation of a EU-wide labour market test does not seem feasible: consider the current fragmentation of the EU labour market and in particular of EU public employment services. A fully-fledged EU-wide Labour Market Information System would be required, on the basis of current national public employment services information systems, in order to make such an EU-wide labour market test possible (see Section 6.1.1).

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<sup>62</sup> COM(2001)386, "Conditions of entry and residence of third country nationals for the purpose of paid employment and self-employment economic activities".

<sup>63</sup> The EU or Community preference in the labour market was defined in the following terms by a Council Resolution of 20 June 1994 on the limitation on admission of third-country nationals to the territory of the Member States for employment: "Member States will consider requests for admission to their territories for the purpose of employment only where vacancies in a Member State cannot be filled by national and Community manpower or by non-Community manpower resident on a permanent basis in that Member State and already forming part of that Member State's regular labour market".



**Social partners and social dialogue mechanisms are a necessary component of any EU labour migration initiative.** They can contribute both to avoid abuses of migrant workers and to defuse misrepresentations leading to the political manipulations of migration issues (see Box 3 on public attitudes to migration in the EU). In the European Commission's European Agenda on Migration, this issue has been taken up through a commitment to "establish a platform of dialogue to include input from business, the trade unions, and other social partners, to maximize the benefits of migration for the European economy and the migrants themselves". The Commission should create separate platforms (or sectorial labour migration councils) with different sectors of the economy. In this way, it can hope to get a firsthand understanding of labour needs, and a more comprehensive European platform for a structured social dialogue on migration and employment at the EU level. In this way, policies will be directly connected to the labour market realities of vital parts of the European economy and adjustments can be made in a timely manner.

**A public information and communication strategy on the realities of migration and the need for a comprehensive labour migration policy at the EU level** should be an integral part of any policy debate in this field, given the strong anti-immigration attitudes in wide sectors of public opinion in many Member States.

**Institutional issues** have not been dealt with in this report, but they play an important role. Within the European Commission, all forms of migration to the EU, including economic migration, are still under DG Migration and Home Affairs. However, the effects of migration flows are felt mainly in the EU labour markets, and from an economic point of view they cannot be dissociated from the EU employment policy and the free movement of labour, which are dealt with by DG Employment and Social Affairs. From a legal point of view, the Lisbon Treaty established that the EU is competent to regulate stay and entry conditions of third-country nationals to the EU (i.e., basically the conditions to obtain residence permits). Member States, meanwhile, keep the exclusive competence to determine the volume of admissions to their labour markets. This institutional setting has to be respected in any new EU initiative in the field of labour migration, but taking into account that, in an economic area with free movement of persons and increasing integration of labour markets, policy coordination between Member States is needed even in their exclusive field of competences.

In terms of **policy instruments to open new channels for legal labour migration to the European Union, the analysis of existing options allows the following conclusions:**

- An EU-wide Labour Market Information System and an EU labour market forecasting system integrating migration flows of non-economic migrants are the basis of any effective, evidence-based labour migration policy at the EU level (see Sections 6.1.1 and 6.1.2) The former can be used to facilitate international labour matching for third-country nationals and to operationalize the principle of EU preference and to ensure a better matching of labour migration policy outcomes to the actual needs of EU labour markets (Section 6.1.3). It might also be a way to defuse public opposition to increased migration to the EU.
- The role of private placement agencies in international labour migration matching should be enhanced and regulated, for instance through the development of a system of certified international recruitment agencies (Section 6.1.4).

- To optimize existing labour force in the EU, the labour market integration of non-economic migrants has to be supported (Section 6.2.1). Intra-EU mobility of third-country nationals legally working in EU Member States should be facilitated (Section 6.2.2). Also, the regularization of irregular migrants, in cases where there is a labour market demand not covered by nationals or EU citizens, should be incentivized (Section 6.2.3).
- Foreign students graduating in EU education institutions should have some opportunity to access the EU labour markets provided that there is demand for them (Section 6.4.1). An EU Traineeship Programme for third-country nationals might become a building block to facilitate the smooth integration into the EU labour market of third-country nationals with the required skills (Section 6.4.2). More generally, the recognition and certification of qualifications and skills obtained in third countries by third-country nationals should be made easier and progress towards an EU-wide recognition system (Section 6.4.3).
- The on-going reform of the EU Blue Card should impose less costs on migrants and employers and grant more rights, in particular to intra-EU mobility, to Blue Card holders (Section 6.3.1).
- Targeted, occupation-specific job search visas (Section 6.3.2) might be a more effective instrument to match EU labour migration policy to EU labour market needs than supply-driven "expression-of-interest" or points systems, as suggested in the European Agenda on Migration (Section 6.3.3).

**Legal labour migration opportunities to the EU should be integrated into EU migration agreements with third countries (such as Mobility Partnerships),** as well as mechanisms to facilitate labour and skills matching for migrant workers from those countries. Indeed, for the sake of policy coherence it is important to ensure a smooth articulation between EU and Member State labour migration policy and EU external cooperation in the field of migration. According to the Global Approach to Migration and Mobility, that sets the framework for EU policy in this area, legal (labour migration) is one of the four main areas for this cooperation, but so far it is the weakest in terms of implementation.

**More research and the better production of data are crucial components of any evidence-based effective labour migration policy at the EU level.** In terms of migration and asylum data and policy review, a revision of Regulation 862/2007 on migration statistics should be undertaken. The current Annual Report on Immigration and Asylum elaborated by the European Migration Network (EMN 2015a) might be transformed into a fully-fledged EU-wide migration policy review mechanism, as is done, for instance in the field of employment policy, in the framework of the Open Coordination Method.

**More research is needed, specifically, in the following areas:**

- The labour market integration of non-economic migrants (family reunification beneficiaries, foreign students, refugees and asylum-seekers). Migration data and migration projections should, as a general rule, be disaggregated by channel of entry, including the EU Labour Force Survey. Understanding the reasons for the lower labour market integration of family members is crucial in developing an effective and coherent labour migration policy at EU level. The same is true of the migrant support measures that can be developed in countries of origin and destination to enhance integration.

- The patterns of intra-EU mobility of TCNs legally residing in the EU. We know too little on the mobility patterns of this group of workers, in particular since the outburst of the economic crisis in 2008, and current statistical systems do not capture those movements properly.
- Another labour migration policy area requiring further research are the mechanisms to better match the profile of labour migrants to the EU labour market needs. This includes the development of better forecasts at national and particularly at the EU level (see Section 2). There should also be thorough research on the feasibility, pros and cons, risks and potential performance of different targeted labour migration policy tools, such as job search visas, expression-of-interest or point systems, circular and seasonal migration schemes and other potential options.
- The implementation of labour market tests in different EU Member States is an under-researched area. However, this is a key dimension of any concrete enforcement of the principle of EU preference (see Box 2), and as such might become an important tool in defusing strong public opposition to new legal avenues for migration to the European Union (see Box 2). The relative performance of different labour market test methodologies and the potential of an EU-wide labour market test should be further explored.

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