

**International Conference on Mobility and Inclusion
Highly-skilled Labour Migration in Europe
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**Panel Discussion: Battle for Talents in Times of Labour
Market Protectionism?**

**The “Blue Card” – a First Step for “Potential Mobility
Partnerships” between the EU and Third Countries?**

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Presentation overview

- 1. Context and background to EU law and policy on legal migration from third countries**
- 2. “Blue Card” Directive – A quick assessment**
- 3. Mobility Partnerships**

A possible model for the development of broad-based arrangements with third countries for the admission of highly skilled workers?
- 4. Conclusions**

**1. Context and background to EU law
and policy on legal migration from
third countries**

Legal migration to EU – background

- For a long time, legal migration from third countries was “missing link” in development of EU law/ policy on immigration and asylum
- In 1994, labour migration into EU from third countries was still considered as an exception (see 1994 Council Resolution which specifically referred to the Community preference principle)
- Lack of consensus on the Commission’s 2001 proposed “horizontal” Directive on legal migration
- But agreement reached on Directives regulating the admission and residence of family members, students and researchers
- EU provisions relating to access of different categories of third-country nationals to employment
 - Family members, long-term residents, refugees, asylum-seekers, victims of trafficking
- Greater impetus to legal migration given by the Hague Programme

Commission policy plan on legal migration (COM (2005) 669, 21 Dec 2005)

- Follows Commission Green Paper on an EU approach to managing economic migration (Jan 2005)
- Describes situation and prospects of labour markets in EU as a “need” scenario in view of labour/ skills shortages and demographic considerations
- Road map for 2006-2009 (i.e. for remainder of Hague Programme)
 - Legally binding measures proposed
 - General Framework Directive to guarantee a common framework of rights to all TCNs in legal employment in the EU
 - 4 specific Directives on conditions of entry and residence of **highly skilled workers**, seasonal workers, intra-corporate transferees and remunerated trainees

Commission policy plan on legal migration (cont'd)

➤ Road map for 2006-2009

- Legally binding measures proposed (see above)

- Other activities

 - Establishment of a EU Immigration Portal

 - Extension of European Job Mobility Portal (EURES) to third-country nationals

 - Integration

 - Cooperation with countries of origin (circular migration, training)

Stockholm Programme (Dec. 2009)

- **Less ambitious in terms of developing EU-wide law and policy on labour migration despite move to QMV and co-decision as a result of entry into force of Lisbon Treaty**
 - **To continue with implementation of Policy Plan on legal migration and assess whether there is a need to consolidate existing legislation**
- **Shift of focus to better assessing labour market demand in EU**
 - **Commission and Council are to evaluate existing policies to improve skills recognition and labour matching between EU and third countries and the capacity to analyze labour market needs, the transparency of European on-line employment and recruitment information, training, information dissemination and skills matching in countries of origin**
- **Global Approach to Migration given prominence**
 - **Especially its tools, including migration profiles and mobility partnerships, with a call to further develop the latter**
 - **Focus on Africa and Eastern and South-Eastern Europe, but dialogue and cooperation to be developed further with other countries and regions such as those in Asia and Latin America**

2. “Blue Card” Directive – A quick assessment

“Blue Card” Directive - Key provisions

- **Procedure for admission**
 - **Scope:** higher education qualifications (3 years of study) or professional experience (5 years)
 - **Conditions:** valid work contract or binding job offer of at least one year; valid travel documents; sickness insurance; not a threat to public policy; security or health; minimum salary threshold (i.e. at least 1.5 times the average gross annual salary in the Member State concerned)
- **Admitted workers receive an EU status. i.e. “Blue Card”**
 - **Period of validity** – between 1 and 4 years but no possibility for renewal
 - **Socio-economic rights and favourable conditions for family reunification**
- **Access to labour market for an EU Blue Card holder in MS restricted for initial period of 2 years**
- **“Blue Card” holders can move to another MS for highly qualified work under certain conditions after 18 months of lawful residence in first MS**
- **Promotion of ethical recruitment policies and principles to avoid negative effects of “brain drain”**

“Blue Card” Directive – positive aspects

- Important symbolism in representing an “EU-wide approach” to the admission of highly skilled workers**
- Open to applicants from all third countries**
- Recognition that affording highly skilled migrants an opportunity to move to work in other EU Member States constitutes added value**

“Blue Card” Directive - critique

- **Does not replace existing national schemes – Article 3(4)**
 - But possibility that some EU MS will adjust national systems to bring them into line with the Directive
 - Denmark, Ireland and UK are not participating
- **Does not regulate numbers of workers admitted to EU**
 - Article 6 of the “Blue Card” Directive
 - Lisbon Treaty amendment – Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, Article 79(5)
- **“Free movement” to other EU MS is heavily circumscribed**
- **Development-friendly nature of measure has been questioned**
- **Existing national approaches generally more favourable, especially in terms of granting access to a secure residence**

Principal features of national approaches

- **Facilitated access to labour market for (highly) skilled migrants (Den, Ger, N, Swe, UK)**
 - **Admission criteria based on a mix of qualifications, work experience and salary thresholds**
 - **In some countries, these criteria have been eased for young highly skilled migrants and former students**
- **Elements of a supply-driven approach in some MS**
 - **UK (Tier 1 points-based entry), Denmark (Green Card scheme)**
- **Access to secure (permanent) residence**
- **Facilitated family reunion and labour market access for family members**

3. Mobility Partnerships as a possible model for the development of broad-based arrangements with third countries for the admission of highly skilled workers?

Mobility Partnerships

(SEC (2009) 1240, 18 Sept 2009)

- **An implementing tool of the EU Global Approach to Migration**
 - **Tailor-made partnerships between interested EU Member States and third countries in the fields of facilitating legal migration, migration and development and preventing irregular migration**
- **Three MPs signed to date (Cape Verde, Moldova and Georgia)**
- **Commitments by EU and participating Member States of relevance to labour mobility**
 - **Monitoring (labour) migration flows**
 - **Assistance to third countries to develop their capacity to manage legal migration flows as part of their national migration management system**
 - **Labour migration schemes (i.e. improved opportunities for legal migration)**
 - **Measures to address risk of brain drain and to promote circular migration of highly skilled migrants**
 - **Visa facilitation**
 - **University exchanges**

Partnerships for highly skilled migration?

Countries of origin – possible elements

- **Migration profiles (another tool of the EU Global Approach to Migration)**
 - Framework for bringing existing information from different sources together in a structured manner, prepared in close collaboration with governments and other pertinent institutions
- **Human resources development**
 - For both domestic and international labour markets with the assistance of partners in destination countries
- **Market research on employment opportunities in EU and assessing labour demand**
 - Market research units within existing government structures
- **Information dissemination (e.g. Migrant Resource Centres)**
- **Preparation of migrants**
 - Skills upgrading, language training

EU Member States – possible elements

- **Immigration profiles**
 - **Assessment of the current labour market situation**
 - **Identification of potential skill shortages by sector and occupation, as a precursor to launching labour matching schemes both within the EU as well as with third countries**
- **Information on rules and procedures**
 - **Development of EU Immigration Portal (currently underway)**
- **Development-friendly policies**
 - **Ethical recruitment**
- **Job-seeking visas (i.e. elements of a supply-based system)**
 - **Could Schengen visas serve this purpose?**
- **Harmonization of systems of recognition of diplomas, qualifications, skills and work experience acquired outside the EU**
- **Access to secure residence**

4. Conclusions

- **Prospects for a more “common” policy on admission of highly skilled migrants to EU?**
 - **Difficulty of reaching consensus among Member States with different policies regarding regulation of their labour markets**
 - **Continued sceptical position of some new Member States**
 - **To date, limited EU-wide consultation with third countries on access to employment, although advent of mobility partnerships is changing this**
- **But possible criticism of extending “mobility partnerships approach” to admission of highly skilled migrants**
 - **Selective approach focusing on key countries risks discriminating against certain nationalities**
 - **Exacerbates differentiated rights protection across the EU**

Thank you for your attention

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